

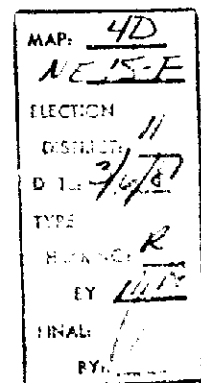
PETITION FOR ZONING RE-CLASSIFICATION SPECIAL EXCEPTION AND/OR VARIANCE

TO THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition (1) that the zoning status of the herein described property be re-classified, pursuant to the Zoning Law of Baltimore County, from an RC-5 zone to an RC-2 zone; and (2) for a special Exception, under the zone, for the reasons given in the attached statement; and (3) for a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County, to use the herein described property, for N/A

and (3) for the reasons given in the attached statement, a variance from the following sections of the Zoning Law and Zoning Regulations of Baltimore County:

1) SEE ATTACHED STATEMENT



Property is to be posted and advertised as prescribed by The Baltimore County Code.

I, or we, agree to pay expenses of above Re-classification, Special Exception and/or Variance, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

Contract Purchaser: N/A
 Legal Owner(s): LOUIS C. HOFFMAN, III
 (Type or Print Name)
 Signature: [Signature]
 Address: [Address]
 City and State: [City and State]

Attorney for Petitioner: Wallace Dann, Esquire
 (Type or Print Name)
 Signature: [Signature]
 Address: Suite 517 - Chesapeake Building
 305 West Chesapeake Avenue
 Towson, Maryland 21204
 City and State: [City and State]
 Attorney's Telephone No.: 321-0840

BANC-Form 1

STATEMENT IN SUPPORT OF PETITION FOR RECLASSIFICATION OF 3.128 ACRES, MORE OR LESS, FORMING THE SOUTHEAST CORNER OF LONG GREEN PIKE AND GLEN ARM ROAD

There is an error in the map. This tract of land is an unimproved lot comprising 3.128 Acres, more or less, and is located on the Southeast corner of Long Green Pike and Glen Arm Road. The lot is currently zoned RC-5. The majority of acreage surrounding the lot, with the exception of a few isolated commercial and manufacturing zones to the West and North, and two RC-5 zones to the West of Long Green Pike, is classified RC-2. The legislature has found it necessary to foster conditions favorable to the continued agricultural use of productive agricultural areas of Baltimore County. This particular parcel forms the tip of a vast stretch of agricultural land and is a natural location for special exception uses under the RC-2 classification such as a farmer's co-op roadside stand because of its proximity to the "hub" of the Glen Arm area. The existing RC-5 classification represents an encroachment of residential development upon a large area of agricultural land and prevents the type of agricultural use referred to above, even by special exception, thereby depriving the surrounding farms of a suitably located central outlet for their produce. The existing RC-5 classification continues the conversion of agricultural land and undermines rather than supports the agricultural industry which is basic to this area.

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
 Appellant: AT LAW
 v. LOUIS C. HOFFMAN, III, et ux, Misc. No. 82-M-83
 Appellees

ORDER FOR APPEAL

MR. CLERK:

Please enter an appeal on behalf of the People's Counsel for Baltimore County from the Opinion and Order of the Circuit Court for Baltimore County dated August 27, 1982, and forward all papers in connection with said case to the Clerk of the Court of Special Appeals of Maryland in accordance with the Maryland Rules.

[Signature]
 John W. Hession, III
 People's Counsel for Baltimore County

[Signature]
 Peter Max Zimmerman
 Deputy People's Counsel
 Rm. 223, Court House
 Towson, Maryland 21204
 494-2188

I HEREBY CERTIFY that on 20th day of September, 1982, a copy of the foregoing Order for Appeal was mailed to Wallace Dann, Esquire, Suite 517, Chesapeake Building, Towson, Maryland 21204.

[Signature]
 Peter Max Zimmerman

RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 SEP 20 1 22 PM '82

RE: PETITION FOR RECLASSIFICATION FROM R.C.5 TO R.C.2 ZONE SE corner Long Green Pike & Glen Arm Rd., 11th District
 BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 LOUIS C. HOFFMAN, III, et ux, Item 6, Cycle 1
 Petitioners

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Rudy Fisher
 12236 Long Green Pike
 Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

[Signature]
 Wallace Dann
 Suite 517 - Chesapeake Building
 305 West Chesapeake Avenue
 Towson, Maryland 21204
 321-0840
 Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

[Signature]
 Jane Holmen, Bd. of Appeals

RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 DEC 22 2 04 PM '82

RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 DEC 28 11 17 AM '82

Zoning

RE: PETITION FOR RECLASSIFICATION FROM R.C.5 TO R.C.2 ZONE Southeast corner Long Green Pike and Glen Arm Road 11th District
 IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
 LOUIS C. HOFFMAN, III, et ux, Misc. FILE 82-M-83
 Petitioners
 Zoning Case No. R-82-66 (Item #6)

OPINION

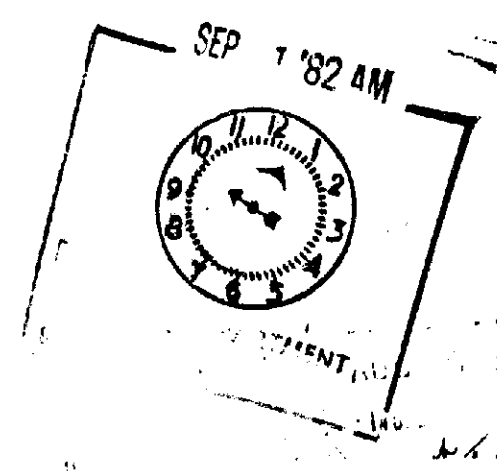
This is an appeal by People's Counsel from a decision of the County Board of Appeals of Baltimore County concerning rezoning of property from R.C.5 to R.C.2, the property being located on the southeast corner of Long Green Pike and Glen Arm Road in the 11th Election District.

On August 25, 1982 counsel for the parties were heard in open court and after reading the transcript, which was rather lengthy, and reviewing all of the exhibits, and in examining the conclusion reached by the Board upon the facts in this case, I do not find that the Board was erroneous in the interpretation and finding of facts and conclusions from the facts, or in the application of the law to the facts, as it had before it evidence legally sufficient to support its decision.

Therefore, the decision of the County Board of Appeals of Baltimore County is AFFIRMED.

August 27, 1982

[Signature]
 William R. Buchanan, Sr.
 JUDGE



RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 AUG 31 10 14 PM '82

RE: PETITION FOR RECLASSIFICATION FROM R.C.5 TO R.C.2 ZONE SE corner Long Green Pike & Glen Arm Rd., 11th District
 BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 LOUIS C. HOFFMAN, III, et ux, Item 6, Cycle 1
 Petitioners

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Rudy Fisher
 12236 Long Green Pike
 Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

[Signature]
 Wallace Dann
 Suite 517 - Chesapeake Building
 305 West Chesapeake Avenue
 Towson, Maryland 21204
 321-0840
 Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

[Signature]
 Jane Holmen, Bd. of Appeals

RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 DEC 22 2 04 PM '82

RE: PETITION FOR RECLASSIFICATION FROM R.C.5 TO R.C.2 ZONE SE corner Long Green Pike & Glen Arm Rd., 11th District
 BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 LOUIS C. HOFFMAN, III, et ux, Item 6, Cycle 1
 Petitioners

ORDER TO ENTER APPEARANCE

To the Honorable, Members of Said Board:

Pursuant to the authority contained in Section 524.1 of the Baltimore County Charter, I hereby enter my appearance in this proceeding. You are requested to notify me of any hearing date or dates which may be now or hereafter designated therefore, and of the passage of any preliminary or final Order in connection therewith.

[Signature]
 Peter Max Zimmerman
 Deputy People's Counsel

[Signature]
 John W. Hession, III
 People's Counsel for Baltimore County
 Rm. 223, Court House
 Towson, Maryland 21204
 494-2188

I HEREBY CERTIFY that on this 25th day of August, 1981, a copy of the foregoing Order was mailed to Wallace Dann, Esquire, Suite 517 - Chesapeake Building, 305 W. Chesapeake Avenue, Towson, Maryland 21204, Attorney for Petitioners.

[Signature]
 John W. Hession, III

RE: PETITION FOR RECLASSIFICATION FROM R.C.5 TO R.C.2 ZONE SE corner Long Green Pike & Glen Arm Rd., 11th District
 BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY
 LOUIS C. HOFFMAN, III, et ux, Item 6, Cycle 1
 Petitioners

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. George Burton
 12032 Glen Arm Road
 Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

[Signature]
 Wallace Dann
 Suite 517 - Chesapeake Building
 305 West Chesapeake Avenue
 Towson, Maryland 21204
 321-0840
 Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

[Signature]
 Jane Holmen, Bd. of Appeals

RECEIVED
 BALTIMORE COUNTY
 COURT OF APPEALS
 DEC 28 1 17 PM '82

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
from R.C. 5 to R.C. 2 Zone : FOR BALTIMORE COUNTY
Southeast corner Long Green Pike :
and Glen Arm Road : AT LAW
11th District :
LOUIS C. HOFFMAN, III, et ux, : Misc. Docket No. 14
Petitioners : Folio No. 88
Zoning Case No. R-82-66 (Item #6) : File No. 82-M-83

ORDER

Upon the foregoing Petition for Extension of Time to File Transcript of Proceedings, it is hereby ORDERED this _____ day of _____, 1982, that the time for filing in Court the transcript of proceedings before the County Board of Appeals is hereby extended from the 28th day of April, 1982, to and including the 28th day of June, 1982.

JUDGE

*Dist. Exhibits 2, 3, 4, 5
given to Peter Zimmerman
to arrange for transfer
to Court of Special Appeals
11-15-82 - Edith P. Eisenhart*

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX, FOR REZONING OF SOUTHEAST CORNER LONG GREEN PIKE AND GLEN ARM ROAD IN THE 11th DISTRICT OF BALTIMORE COUNTY, FROM R.C. 5 TO R.C. 2 ZONE : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning Case No. R-82-66 (Item #6) : Misc. Docket No. 14
Folio No. 88
JOHN W. HESSIAN, III, ESQ., PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, APPELLANT : FILE NO. 82-M-83

MOTION FOR PERMISSION TO FILE ANSWER

Louis C. Hoffman, III and Nancy C. Hoffman, Petitioners before the Baltimore County Board of Appeals and Appellees herein, by their attorney, Wallace Dann, moves this Honorable Court, for permission to file an answer denying the facts alleged in the Petition.

For cause the Appellees say as follows:

1. No prejudice has resulted to the Appellant from the failure of the Appellees to file an answer within 30 days from the filing of the Petition of Appeal.
2. Appellees became confused in the time sequences by the filing of the Petition for extension to file transcript of proceeding to and including the 28th day of June, 1982.
3. At no time have the Appellees intended to abandon their Petition for reclassification of their property.
4. For such other and further reasons as shall hereinafter be addressed to the Court.

AND, AS IN DUTY BOUND, etc.

Wallace Dann
Suite 517 Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
301-321-0840

Attorney for Louis C. Hoffman, III and Nancy C. Hoffman

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX, FOR REZONING OF SOUTHEAST CORNER LONG GREEN PIKE AND GLEN ARM ROAD IN THE 11th DISTRICT OF BALTIMORE COUNTY, FROM R.C. 5 TO R.C. 2 ZONE : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning Case No. R-82-66 (Item #6) : Misc. Docket No. 14
Folio No. 88
JOHN W. HESSIAN, III, ESQ., PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, APPELLANT : File No. 82-M-83

CERTIFIED COPIES OF PROCEEDINGS BEFORE THE BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come William T. Hackett, Keith S. Franz and Leroy B. Spurrier, constituting the County Board of Appeals of Baltimore County, and in answer to the Order for Appeal directed against them in this case, herewith return the record of proceedings had in the above entitled matter, consisting of the following certified copies or original papers on file in the office of the Board of Appeals of Baltimore County:

ENTRIES FROM DOCKET OF BOARD OF APPEALS OF BALTIMORE COUNTY

No. R-82-66
March 2, 1981 Petition of Louis C. Hoffman, III, et ux, for reclassification from R.C. 5 to R.C. 2 zone, on property located on the southeast corner of Long Green Pike and Glen Arm Road, 11th District, filed
April 29, 1981 Order of William T. Hackett, Chairman, County Board of Appeals, directing advertisement and posting of property - date of hearing set for September 23, 1981, at 10 a.m.
September 2, 1981 Comments of Baltimore County Zoning Advisory Committee - filed
September 9, 1981 Planning Board's Recommendations and map
September 23, 1981 Certificate of Publication in newspaper - filed
September 23, 1981 Certificate of Posting of property - filed
September 23, 1981 At 10 a.m. hearing held on petition
January 14, 1982 Continued hearing on petition

POINTS AND AUTHORITIES

1. Maryland Rule B9.
2. Maryland Rule 309b.
3. George Walter Toomey, Jr., et al v. Henry J. Gomeringer, et ux, 235 Md. 456, 201 A.2d 842 (1964).

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 7th day of June, 1982, a copy of the foregoing was mailed to Peter Max Zimmerman, Esquire, Deputy People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

Wallace Dann

Louis C. Hoffman, III, et ux
Case No. R-82-66 :
March 3, 1982 Order of County Board of Appeals GRANTING rezoning of the subject parcel from R.C. 5 to R.C. 2
March 26, 1982 Order for Appeal filed in Circuit Ct. for Balto. County by John W. Hessian, Esq., People's Counsel for Balto. County
March 29, 1982 Petition to accompany Order for Appeal filed in Circuit Ct. for Baltimore County
March 31, 1982 Certificate of Notice sent to all interested parties
April 5, 1982 Petition for Extension of Time to file Transcript of proceedings
May 5, 1982 Transcript of testimony filed

Petitioner's Exhibit No. 1 - Qualifications of Robt. S. Gaines

- " " 2 - Aerial Photo (in Bd. of Appeals closet)
- " " 3 - Plat (in Bd. of Appeals closet)
- " " 4 - Topographical Map (in Bd. of Appeals closet)
- " " 5 - Photos of surrounding area (in Bd. of Appeals closet)
- " " 6 - Letter to Gordon Miller from Brooks Stafford, dated April 20, 1981

People's Counsel Exhibit A - 1-9, photos of subj site

- " " B - Planning Board Recommendation

May 5, 1982 Record of proceedings filed in Circuit Court for Baltimore County
Record of proceedings pursuant to which said Order was entered and said Board and are permanent records of the office of the Board of Appeals, and your respondents respectively suggest that it would be inconvenient and inappropriate to file the same in this proceeding, but your respondents will produce any and all such rules and regulations whenever directed to do so by this Court.

Respectfully submitted,

John W. Hessian, III
June Holman
County Board of Appeals of Baltimore County

CC: Wallace Dann, Esq.
Jack Hessian, Esq.

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX, FOR REZONING OF SOUTHEAST CORNER LONG GREEN PIKE AND GLEN ARM ROAD IN THE 11th DISTRICT OF BALTIMORE COUNTY, FROM R.C. 5 TO R.C. 2 ZONE : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning Case No. R-82-66 (Item #6) : Misc. Docket No. 14
Folio No. 88
JOHN W. HESSIAN, III, ESQ., PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, APPELLANT : FILE NO. 82-M-83

ORDER OF COURT

Upon the foregoing Motion of Louis C. Hoffman, III and Nancy C. Hoffman for a longer time to be fixed to file an answer to the Petition on Appeal, it is by the Court this _____ day of June, 1982.

ORDERED that the Motion of Louis C. Hoffman, III and Nancy C. Hoffman be and the same is granted, and the said answer shall be filed this date.

JUDGE

Louis C. Hoffman, III, et ux
IN THE CIRCUIT COURT FOR BALTIMORE COUNTY
Vs. FOR
County Board of Appeals of Baltimore County
BALTIMORE COUNTY
Docket # 14 Folio #88
Case No. 82-M-83

NOTICE OF FILING OF RECORD

TO: Peter Max Zimmerman June Holman
John W. Hessian, III Mail Stop 2203
Rm. 223, Court House
Towson, Md. 21204

In accordance with Maryland Rule of Procedure 312, you are notified that the record in the above entitled case was filed on _____, 1982.

Shirley H. Hollins, Jr.
Clerk

RECEIVED
BALTIMORE COUNTY
MAY 7 11 03 AM '82
COUNTY CLERK

IN THE MATTER OF THE APPLICATION OF LOUIS C. HOFFMAN, III, ET UX, FOR REZONING OF SOUTHEAST CORNER LONG GREEN PIKE AND GLEN ARM ROAD IN THE 11th DISTRICT OF BALTIMORE COUNTY, FROM R.C. 5 TO R.C. 2 ZONE : IN THE CIRCUIT COURT FOR BALTIMORE COUNTY AT LAW
Zoning Case No. R-82-66 (Item #6) : Misc. Docket No. 14
Folio No. 88
JOHN W. HESSIAN, III, ESQ., PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, APPELLANT : FILE NO. 82-M-83

ANSWER TO PETITION ON APPEAL

Louis C. Hoffman, III and Nancy C. Hoffman, Petitioners before the Baltimore County Board of Appeals and Appellees herein, by their attorney, Wallace Dann, in answer to the Petition on Appeal say as follows:

1. In answering paragraphs 1 through 5 of the Petition, the Appellees deny the allegations contained therein. The testimony adduced before the Board disclose that there were certain specific physical facts which were not readily visible at the time of the comprehensive zoning; that there was testimony on the part of those preparing the plan that then existing facts were not taken into account; that the council failed to make provision for a trend or need which existed at the time of the comprehensive zoning; and testimony as to other errors or mistakes which occurred in connection with the plan as it effected the property under consideration. The presumption of validity accorded to the comprehensive zoning was therefore overcome, and error or mistake was established by the probative evidence produced, which showed that the assumptions or premises relied upon by the council at the time of the comprehensive zoning were invalid. The Court may not at this time make a change in the zoning which was ordered because to do so would be to substitute its judgment for that of the County Board of Appeals.

WHEREFORE, having fully answered the Petition on Appeal, the Appellees pray that the Order of the Board of Appeals, dated

Wallace Dann
Suite 517 Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
301-321-0840

Attorney for Louis C. Hoffman, II
and Nancy C. Hoffman

I HEREBY CERTIFY, that on this 7th day of June, 1982, a copy of the foregoing was mailed to Peter Max Zimmerman, Esquire, Deputy People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

Wallace Damm

- 2 -

*The Planning Board recommendation (Exh. B) includes a 1"=1000' scale zoning map, attached hereto.

| | | |
|-----------------------------|---|--------------------|
| IN THE MATTER | * | IN THE |
| OF THE APPLICATION | * | |
| OF LOUIS C. HOFFMAN, III, | * | CIRCUIT COURT |
| ET UX, FOR REZONING OF | * | |
| SOUTHEAST CORNER LONG GREEN | * | FOR |
| LAKE AND GLEN ARM ROAD IN | * | |
| THE 11th DISTRICT OF | * | BALTIMORE COUNTY |
| BALTIMORE COUNTY, FROM | * | |
| R.C. 5 to R.C. 2 ZONE | * | AT LAW |
| Zoning Case No. R-82-66 | * | Misc. Docket No. 1 |
| (Item #6) | * | |
| | * | Folio No. 88 |
| JOHN W. HESSIAN, III, ESQ., | * | |
| PEOPLE'S COUNSEL FOR | * | FILE NO. 82-M-83 |
| BALTIMORE COUNTY, APPELLANT | * | |

Please set the above-entitled matter for hearing before the Court on its merits of the appeal.

Wallace Dann
Suite 517 Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
301-321-0840

Attorney for Louis C. Hoffman, III
and Nancy C. Hoffman

I HEREBY CERTIFY, that on this 7th day of June, 1982, a copy of the foregoing was mailed to Peter Max Zimmerman, Esquire, Deputy People's Counsel for Baltimore County, Room 223, Court House, Towson, Maryland 21204.

Wallace Damm

-4-

There was no error here. The presumption is that the Council was well aware of the rural Glenarm intersection and sensibly classified the southeast (as well as the southwest) corners R.C. 5, permitting residential, farm, and other uses.

On March 3, 1982, the County Board of Appeals granted Appellee's request for zoning reclassification from R.C. 5 (rural residential) to R.C. 2 (agricultural). The property, 3.10 acres, is located at the southeast corner of Glen Arm Road and Long Green Pike, in the northeastern sector of Baltimore County.

The basis of this appeal is that the County Council committed no error in the 1993 Comprehensive Zoning process and provided for reasonable land use at this rural intersection, in harmony with the character of the neighborhood. The potential uses under existing zoning, such as for a residence or orchard, are, with almost no differences, the same uses permitted under the requested zoning. Compare Baltimore County Zoning Regulations (BCZR) 1A01 and 1A04. Moreover, as applied to this lot, the permitted residential density works out to two lots under either classification. There was some testimony that soil percolation or water problems might prevent more than one building lot; but no definitive test was performed. In any event, the problem would exist equally under either zoning classification.

Petitioner offered testimony, over objection, of a desire to use the property as a farmers' co-operative roadside stand, one of the few uses allowed in R.C. 2 b if not in R.C. 5. See BCZR 1A01.C.7. Pursuant to Baltimore County Code Section 2-58.1(l)-(n), and the Board's interpretation, such evidence was irrelevant because of Appellée's election

- 5 -

As in Howard County v. Dorsey, *supra*, at 365, the evidence was insufficient to make the question of error fairly debatable. The conclusion that the property was unsuitable for residential use was not supported by adequate reason or facts and was, moreover, irrelevant to the specific zoning issue. There was no evidence that the property owner was deprived all reasonable use of his property. Finally, there was no evidence to show that the Council was unaware of the readily visible physical characteristics and location of the property, or that its initial premises were incorrect.

Not only did the applicant fail to show error, but also to produce evidence that the requested zoning was warranted by the error. Indeed, it would be add to argue that R.C. 2 zoning, so similar to R.C. 5 in this context, is necessary to correct a serious error.

- 3 -

for property owners to procure uses which happen to meet their idiosyncratic preferences, in the nature of "spot" zoning by petition.

He noted the houses on half acre lots, the industry to the north, and agriculture to the east and west. He did not believe it would be profitable to build a residence on the subject property, particularly under current economic conditions in which "a lot of builders are simply not making it," (T. 30) But he admitted that a residence could be built and described fifteen existing dwellings in the immediate neighborhood. (T. 30-36, 40) As it was put,

Q (By Mr. Zimmerman) In any event, you have got houses near
th of the four corners of the intersection, is that correct; in other words,
th and south of Glen Arm Road, and east and west of Long Green Pike?

"A Correct."

Gaines suggested that the property would be limited to one septic system near the south side of Glen Arm Road, (T. 43-46) but a letter from the Baltimore County Health Department stated no such restriction, (T. 44) As to agricultural use, Gaines found no adverse effect on the area.

Louis Hoffman, the property owner and orchardist, had purchased the property in February, 1981 for \$36,000. Over objection, he stated his intent to use the property as a farmers' co-op market. (T. 49-50) He also described the neighborhood, and thought that only one house could be built there. He acknowledged that the existing zoning permitted an orchard. (T. 56)

- 6 -

For the foregoing reasons, the comprehensive zoning should be sustained, the piecemeal reclassification petition denied, and the Order of the County Board of Appeals dated March 3, 1982 reversed.

John W. Hession, III
People's Counsel for Baltimore County

Peter M. Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that a copy of the foregoing Appellant's Memorandum
was mailed to Wallace Dann, Esquire, Suite 517, Chesapeake Building, Towson,
Maryland 21204, this 25 day of June, 1982.

Peter Max Zimmerman
Peter Max Zimmerman

RECEIVED
BALTIMORE COUNTY
JUN 25 1 05 PM '92
COUNTY BOARD
OF APPEALS

CIRCUIT COURT FOR BALTIMORE COUNTY

DOCKET 14 PAGE 88 CASE NO. 82-M-83 CATEGORY APPEAL

ADVANCE COSTS

Pliff's Atty
Clerk 60.00

Sheriff

Paid 3/20/82 Per LA

Receipt No. 7-737

ADDITIONAL COSTS

Defdt's Atty

Clerk

Sheriff

RE: PETITION FOR RECLASSIFICATION
from R.C. 5 to R.C. 2 Zone
Southeast corner Long Green Pike
and Glen Arm Road
11th DistrictLOUIS C. HOFFMAN, III, et ux,
Petitioners
Zoning Case No. R-82-66 (Item #6)Peter Max Immerman
John W. Tessian, III
Rm. 223, Courthouse (04)
494-2188Wallace Dann
305 W. Chesapeake Ave.-517 (4)
321-0840COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

(1) March 26, 1982 - Order for Appeal from the Opinion and Order of the County Board of Appeals of Baltimore County fd.

(2) Mar. 29, 1982 Pliff's Petition on Appeal fd.

(3) March 31, 1982 Certificate of Notice fd.

(4) April 6, 1982 Appellant's (PEOPLE'S COUNSEL for BALTIMORE COUNTY) Petition for Extension of Time to File Transcript of Proceedings and Order of Court that the time for filing is hereby extended from the 28th day of April 1982, to and including the 28th day of JUNE, 1982, fd. (JFF)

(5) May 5, 1982 - Transcript of Record fd.

(6) May 5, 1982 - Notice of Filing of Record fd. Copy sent.

(7) June 7, 1982 App. of Wallace Dann for the Petitioners. Same day Answer fd.

(8) June 7, 1982 Petitioners' Motion for Permission to File Answer, Points & Authorities and Order of Court granting same fd. (JFF)

(9) June 7, 1982 Petitioners' Request for Hearing fd.

(10) June 25, 1982 - Appellant's Memorandum fd.

(11) July 30, 1982 Appellee's Memorandum fd.

(12) Aug. 18, 1982- Appellee's Revised Memorandum fd.

Aug. 25, 1982 Hon. William R. Buchanan, Sr. Hearing had. Opinion Held Sub-Curia.

(OVER)

DOCKET 14 PAGE 88 CASE NO. 82-M-83

BALTIMORE COUNTY

ZONING PLANS

ADVISORY COMMITTEE



PETITION AND SITE PLAN

EVALUATION COMMENTS

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

April 29, 1981

COUNTY OFFICE BLDG.
111 W. Chesapeake Ave.
Towson, Maryland 21204

000

Nicholas B. Commodari
Chairman

MEMBERS

Bureau of Engineering
Department of Traffic Engineering
State Roads Commission
Bureau of Fire Prevention
Health Department
Project Planning
Building Department
Board of Education
Zoning Administration
Industrial DevelopmentWallace Dann, Esquire
Suite 517, Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204RE: Item No. 6 (Cycle 1 - April-October, 1981)
Petitioner-Louis C. Hoffman III
et ux
Reclassification Petition

Dear Mr. Dann:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the 1st 1980-84 zoning cycle.

The petition has been reviewed by the Zoning Office as to form and content and has also been reviewed by the Zoning Plans Advisory Committee.

The review and enclosed comments from the Committee are intended to provide you and the Board of Appeals with an insight as to conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or site plans be amended so as to reflect better compliance with the zoning regulations and commenting agencies' standards and policies, you are requested to review these comments, make your own judgement as to their accuracy and submit the necessary amendments to this office before May 29th. In the event that any requested amendments are not received prior to this date, the petition will be advertised as originally submitted.

Because of your clients' proposal to rezone this vacant wooded site, located at the southeast corner of Long Green Pike and Glen Arm Road, to an R.C. 2 zone, this hearing is required. Contiguous properties to the east and south are zoned R.C. 2, while R.C. 5 zoned land, improved with dwellings, exist to the west across Long Green Pike.

Particular attention should be afforded to the comments of the Health Department.

RE: PETITION FOR RECLASSIFICATION
From R.C.5 to R.C.2 Zone
Southeast corner Long Green Pike
and Glen Arm Road
11th DistrictLOUIS C. HOFFMAN, III, et ux,
Petitioners

Zoning Case No. R-82-66 (Item #6)

IN THE
CIRCUIT COURT
FOR BALTIMORE COUNTY
AT LAW

MISC. FILE 82-M-83

OPINION

This is an appeal by People's Counsel from a decision of the County Board of Appeals of Baltimore County concerning rezoning of property from R.C.5 to R.C.2, the property being located on the southeast corner of Long Green Pike and Glen Arm Road in the 11th Election District.

On August 25, 1982 counsel for the parties were heard in open court and after reading the transcript, which was rather lengthy, and reviewing all of the exhibits, and in examining the conclusion reached by the Board upon the facts in this case, I do not find that the Board was erroneous in the interpretation and finding of facts and conclusions from the facts, or in the application of the law to the facts, as it had before it evidence legally sufficient to support its decision.

Therefore, the decision of the County Board of Appeals of Baltimore County is AFFIRMED.

August 27, 1982

 William R. Buchanan, Sr.
JUDGE
Item No. 6, Cycle 1
Louis C. Hoffman, III et ux
Reclassification Petition

If you have any questions concerning the enclosed comments, please feel free to contact me at 494-3391. Notice of the specific hearing date, which will be between September and December of 1981, will be forwarded to you in the future.

Very truly yours,

 NICHOLAS B. COMMODARI
Chairman
Zoning Plans Advisory Committee

NBC:eah

Enclosures

cc: E. F. Raphael and Associates
201 Courtland Avenue
Towson, Maryland 21204

File

LOUIS C. HOFFMAN, III, et ux

R-82-66

SE corner Long Green Pike and
Glen Arm Road

Reclass.-R.C. 5 to R.C. 2

March 2, 1981

Petition filed

March 3, 1982

Order of the Board GRANTING the rezoning
of the property

March 26, "

Order for Appeal filed in Cir. Ct. by J. Hession,
Esq., People's Counsel

April 5, "

Petition for Extension of Time to file Transcript

May 5, "

Record of proceedings filed in Cir. Ct. for
Baltimore County

Aug. 27

AFFIRMED - Judge Wm. R. Buchanan, Sr.

Sept. 20

Order for Appeal filed in the Court of Special
Appeals by People's Counsel

May 2, 1983

Board AFFIRMED CC: Zoning
by C. of S.A. Planning

June 8

Writ of Certiorari filed in the Court of Appeals
by People's Counsel

Sept. 14

Writ of Certiorari DENIED by Court of Appeals

BALTIMORE COUNTY
DEPARTMENT OF PUBLIC WORKS
TOWSON, MARYLAND 21204HARRY J. PISTEL, Jr.
DIRECTOR

March 31, 1981

Mr. Walter A. Reiter, Jr.
Chairman, Board of Appeals
Court House
Towson, Maryland 21204Re: Item #6 (Cycle I - April-October 1981)
Property Owner: Louis C. & Nancy C. Hoffman, III
S/E corner Long Green Pike & Glen Arm Rd.
Existing Zoning: R.C. 5
Proposed Zoning: R.C. 2
Acres: 3.1 District: 11th

Dear Mr. Reiter:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

Highways:

Glen Arm Road and Long Green Pike, existing public roads, are proposed to be improved in the future, as 40-foot closed section roadways on 60-foot rights-of-way, with fillet areas for sight distance at their intersection.

The entrance locations are subject to approval by the Department of Traffic Engineering, and shall be constructed in accordance with Baltimore County Standards and Specifications.

Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

Storm Drains:

The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problem which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

Item #6 (Cycle I - April-October 1981)
Property Owner: Louis C. & Nancy C. Hoffman, III
Page 2
March 31, 1981

Water and Sanitary Sewer:

Public water supply and sanitary sewerage are not available to serve this property, which is beyond the Baltimore County Metropolitan District and the Urban-Rural Demarcation Line. Baltimore County Water and Sewerage Plans W and S-11A, as amended, indicate "No Planned Service" in this area.

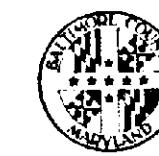
Very truly yours,

Robert A. Morton
ROBERT A. MORTON, P.E., Chief
Bureau of Public Services

RAM:EAM:FWR:iss

cc: Jack Wimbley

Q-NW Key Sheet
57 NE 23 & 24 Pos. Sheets
NE 15 F Topo
53 Tax Map



BALTIMORE COUNTY
OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND 21204
494-3211

NORMAN E. GERDER
DIRECTOR

April 14, 1981

Mr. Walter A. Reiter, Jr., Chairman
Board of Appeals
Room 219 - Court House
Towson, Maryland 21204

Dear Mr. Reiter:

Comments on Item #6, Zoning Cycle I, April, 1981, are as follows:

Property Owner: Louis C and Nancy C. Hoffman, III
Location: SE/Corner Long Green Pike & Glenarm Road
Existing Zoning: RC-5
Proposed Zoning: RC-2
Acres: 3.1
District: 11th

This office has reviewed the subject petition and offers the following comments. These comments are not intended to indicate the appropriateness of the zoning in question, but are to assure that all parties are made aware of plans or problems with regard to development plans that may have a bearing on this pet' ...

If the petition is granted a detailed site plan must be approved before any proposed development may commence.

Very truly yours,

John L. Wimbley
John L. Wimbley
Planner III
Current Planning and Development



baltimore county
Department of Traffic Engineering
TOWSON, MARYLAND 21204
13011-454-3550

STEPHEN COLLINS
DIRECTOR

March 30, 1981

Mr. Walter A. Reiter, Jr.
Chairman, Board of Appeals
Office of Law
Courthouse
Towson, Maryland 21204

Item No. 6 - ZAC meeting of March 16, 1981
Property Owner: Louis C. & Nancy C. Hoffman, III
Location: SE/Corner Long Green Pike & Glenarm Road
Existing Zoning: R. C. 5
Proposed Zoning: R. C. 2
Acres: 3.1
District: 11th

Dear Mr. Reiter:

No increase in traffic generation is anticipated by the requested zoning change from RC 5 to RC 2.

This site may have access problems due to the narrow roads, limited sight distance and grades.

Very truly yours,

Michael S. Flanigan
Michael S. Flanigan
Engineer Associate II

MSF/bza



BALTIMORE COUNTY
DEPARTMENT OF HEALTH
TOWSON, MARYLAND 21204

DONALD J. ROOP, M.D., M.P.H.
DEPUTY STATE & COUNTY HEALTH OFFICER

April 2, 1981

Mr. Walter Reiter, Chairman
Board of Appeals
Office of Planning and Zoning
County Office Building
Towson, Maryland 21204

Dear Mr. Reiter:

Comments on Cycle I, #6, Zoning Advisory Committee Meeting of March 16, 1981, are as follows:

Property Owner: Louis C. & Nancy C. Hoffman, III
Location: SE/Corner Long Green Pike & Glenarm Road
Existing Zoning: R.C. 5
Proposed Zoning: R.C. 2
Acres: 3.1
District: 11th

The proposed building structure will be served by a sewage disposal system and water well. Soil percolation tests have been conducted, the results of which will be valid for a period of 3 years from the date of the approval letter. A water well must be drilled, meeting all requirements as set forth by the Baltimore County Department of Health and State of Maryland Department of Mental Health and Hygiene.

Prior to occupancy of the building, a bacteriological water sample must be collected to verify the potability of the water supply.

The zoning plan as submitted, does not contain sufficient information; therefore, the Baltimore County Department of Health cannot make complete comments.

Very truly yours,

Ian J. Forrest
Ian J. Forrest, Director
BUREAU OF ENVIRONMENTAL SERVICES

IJF:sgt



BALTIMORE COUNTY
FIRE DEPARTMENT
TOWSON, MARYLAND 21204
825-7310

PAUL H. REINCKE
CHIEF

March 19, 1981

Mr. William Hammond cc: Walter Reiter
Zoning Commissioner Chairman of Board of Appeals
Office of Planning and Zoning
Baltimore County Office Building
Towson, Maryland 21204

Attention: Nick Commodari, Chairman
Zoning Plans Advisory Committee

RE: Property Owner: Louis C. & Nancy C. Hoffman, III

Location: SE/Corner Long Green Pike & Glenarm Road

Item No.: 6 Zoning Agenda Meeting of March 16, 1981

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

() 1. Fire hydrants for the referenced property are required and shall be located at intervals or _____ feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.

() 2. A second means of vehicle access is required for the site.

() 3. The vehicle dead end condition shown at _____

EXCEEDS the maximum allowed by the Fire Department.

() 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.

() 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.

() 6. Site plans are approved, as drawn.

(X) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: *George M. McGeon* Noted and Approved: *George M. McGeon*
Planning/Group Fire Prevention Bureau
Special Inspection Division

/mb

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Mr. Walter Reiter
Board of Appeals Chairman
Mr. Charles E. Burnham
Plans Review Chief - Permits and Licenses
Date: March 27, 1981
FROM: Cycle I - 1981
SUBJECT: RE: Cycle Zoning March 24, 1981
PROPERTY OWNER: Louis C & Nancy C. Hoffman, III
LOCATION: S/2 Corner Long Green Pike & Glenarm Road
EXISTING ZONING: R.C. 5
PROPOSED ZONING: R.C. 2
ACRES: 3.1
DISTRICT: 11th
ITEM NO. 6

Applicant shall acquire permits for any improvements to the site, sufficient plans, other data shall be provided to allow for the processing of this permit.

NOTE: All comments are based on data provided on site plan and data provided by the Zoning Advisory Committee. Comments in many cases cannot be more specific or advisory due to the limited information.

Charles E. Burnham
Charles E. Burnham
Plans Review Chief

CSB:rrj
CC: Nick Commodari

BALTIMORE COUNTY PUBLIC SCHOOLS

Robert V. Dubel, Superintendent

Towson, Maryland - 21204

Date: March 23, 1981

Mr. Walter Reiter
Chairman, Board of Appeals
Baltimore County Office Building
1111 West Chesapeake Avenue
Towson, Maryland 21204

Zoning Cycle #1 March 16, 1981

RE: Item No: 6
Property Owner: Louis C. & Nancy C. Hoffman, III
Location: SE/Corner Long Green Pike & Glenarm Rd.
Present Zoning: R.C. 5
Proposed Zoning: R.C. 2

School Situation

Location Enrollment Capacity Over/Under

Comment: Acreage too small to have an effect on student population.

Student Yield With:

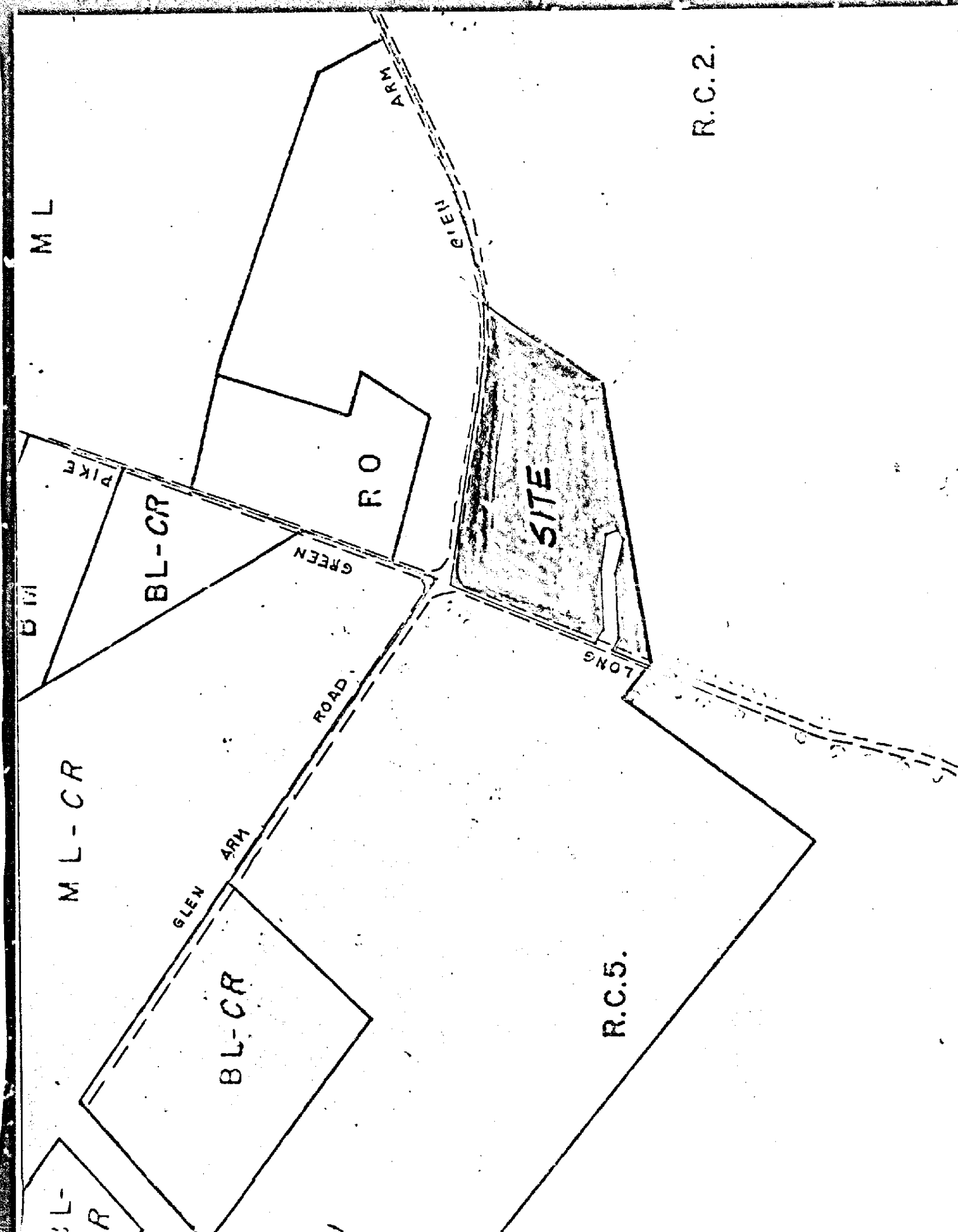
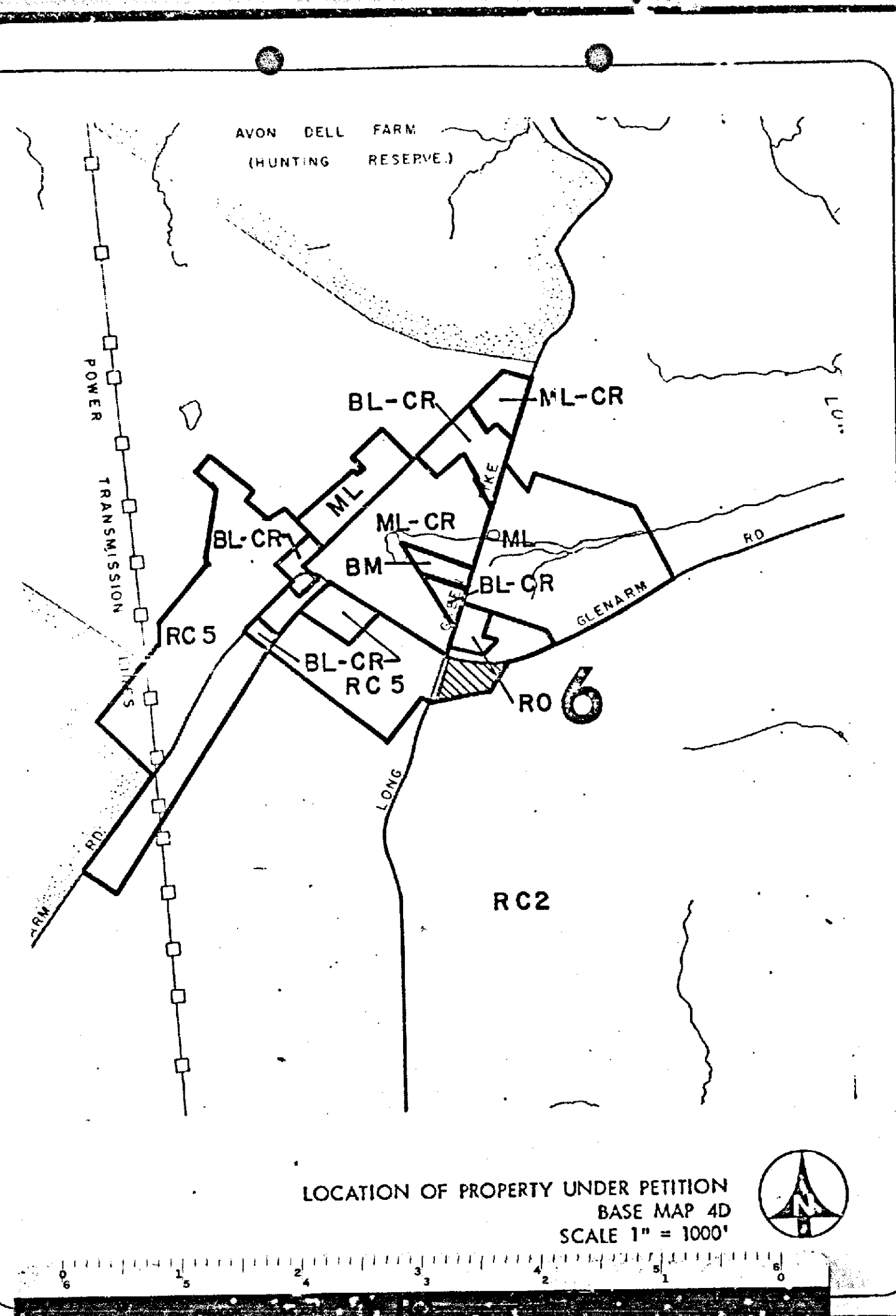
Existing Zoning And Proposed Zoning

Elementary
Junior High
Senior High

Very truly yours,

Wm. Nick Petrovich
Wm. Nick Petrovich, Assistant
Department of Planning

NNP/bp



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

October 5, 1981

Wallace Dann, Esquire
Suite 517, Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Re-classification
SE/corner Long Green Pike & Glen Arm Rd.
Case #R-82-66 - Item #6
Louis C. Hoffman, III, et ux - Petitioners

Dear Mr. Dann:

This is to advise that \$51.31 is due for the 2nd full page add of the cycle 1 billing. You have already been billed for the 1st full page add as well as for the individual posting and advertising of this property. All bills must be paid before an order is issued. This is your final bill.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland, 21204, as soon as possible.

Very truly yours,

William E. Hammond
Zoning Commissioner

WEH:klr

Wallace Dann
ATTORNEY AND COUNSELLOR AT LAW
SUITE 517
CHESAPEAKE BUILDING
305 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(410) 521-0848

July 22, 1981

ASSOCIATES
ROGER L. ELLIOTT
RAYMOND V. RAVENEL

Ms. Karen Riegel
Room 113, County Office Bldg.
Towson, Maryland 21204

RE: Item No. 6 - Cycle No. 1
Petitioner - Louis C. Hoffman, III, et al
Reclassification Petition

Dear Ms. Riegel:

In accordance with Mr. William E. Hammond's letter to me of June 10th, enclosed you will find my client's check in the amount of \$77.15.

Very truly yours,
Wallace Dann

WD/gab
Enclosure

BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

September 17, 1981

Wallace Dann, Esquire
Suite 517 - Chesapeake Building
305 W. Chesapeake Avenue
Towson, Maryland 21204

RE: Petition for Re-classification
SE/cor. of Long Green Pike & Glen Arm Rd.
Louis C. Hoffman, III, Et Ux - Petitioners
Case #R-82-66

Dear Mr. Dann:

This is to advise you that \$70.50 is due for advertising and posting of the above property.

Please make check payable to Baltimore County, Maryland, and remit to Karen Riegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,
William E. Hammond
Zoning Commissioner

WEH:klr

PETITION FOR RE-CLASSIFICATION

11th DISTRICT

ZONING: Petition for Re-classification
LOCATION: Southeast corner of Long Green Pike and Glen Arm Road
DATE & TIME: Wednesday, September 23, 1981 at 10:00 A.M.
PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Present Zoning: R.C. 5
Proposed Zoning: R.C. 2

All that parcel of land in the Eleventh District of Baltimore County

Being the property of Louis C. Hoffman, III, et ux, as shown on plat plan filed with the Zoning Department

Hearing Date: Wednesday, September 23, 1981 at 10:00 A.M.
Public Hearing: Room 218, Courthouse, Towson, Maryland

BY ORDER OF
WILLIAM T. HACKETT, CHAIRMAN
COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

E. F. RAPHEL & ASSOCIATES
Registered Professional Land Surveyors
201 COURTLAND AVENUE
TOWSON, MARYLAND 21204

February 27, 1981

RESIDENCE: 771-4592

Description to Accompany Petition for Reclassification
Property of Louis C. Hoffman III and Wife

BEGINNING FOR THE SAME at the intersection formed by the centerline of Long Green Pike and the centerline of Glen Arm Road, running thence and binding on the centerline of Long Green Pike South 30 degrees 19 minutes 55 seconds West 277.82 feet, thence leaving said road and running South 43 degrees 23 minutes 35 seconds East 23.72 feet, South 85 degrees 36 minutes 39 seconds East 103.07 feet, South 70 degrees 49 minutes 45 seconds East 59.53 feet, South 17 degrees 42 minutes 35 seconds East 33.41 feet, South 71 degrees 47 minutes 35 seconds West 15.56 feet, North 63 degrees 59 minutes 35 seconds West 60.00 feet, North 85 degrees 36 minutes 35 seconds West 114.65 feet, North 43 degrees 23 minutes 35 seconds West 26.54 feet to the centerline of Long Green Pike, binding on said Pike South 30 degrees 19 minutes 55 seconds West 120.60 feet, thence leaving Long Green Pike and running North 84 degrees 08 minutes 10 seconds East 525.31 feet and North 42 degrees 50 seconds 00 minutes East 254.12 feet to the center of Glen Arm Road, running thence binding thereon North 79 degrees 53 minutes 00 seconds West 104.00 feet, North 76 degrees 33 minutes 00 seconds West 100.00 feet, North 75 degrees 40 minutes 00 seconds West 100.00 feet, North 70 degrees 35 minutes 00 seconds West 100.00 feet and North 70 degrees 19 minutes 20 seconds West 92.95 feet to the place of beginning.

CONTAINING 3.1 acres of land, more or less.
BEING the property of Louis C. Hoffman III and wife.

E. F. Raphael
Eugene F. Raphael
Reg. Prof. Land Surveyor



August 23, 1981

David Layton, Esq.
Suite 517, Chesapeake Bldg.
Towson, Md. 21204

Dear Mr. Layton:

Re: Louis C. Hoffman, III, and
Nancy C. Hoffman, Petition #6

For our telephone conversation of today, Mr. Layton has agreed to grant an extension of time to Sept. 7, 1981, for Mr. Dann to reply to his letter re the above case.

Very truly yours,

John M. Dann, Secretary

ITEM NO. 6

PROPERTY OWNER: Louis C. and Nancy C. Hoffman, III
 LOCATION: S/E corner of Long Green Pike and Glenarm Road
 ELECTION DISTRICT: 11
 COUNCILMANIC DISTRICT: 5
 RECOMMENDED DATE OF HEARING: Week of September 21, 1981
 ACREAGE: 3.10
 GEOGRAPHICAL GROUP: None
 FUNCTIONAL CATEGORY: None

ZONING PRIOR TO ADOPTION OF 1980 COMPREHENSIVE ZONING MAP: R.C. 5
 EXISTING ZONING: R.C. 5
 REQUESTED ZONING: R.C. 2

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning (R.C. 5)

This vacant, wooded tract of land is located on the southeast corner of Long Green Pike and Glenarm Road. On the southwest and northeast corner of this intersection are single-family dwellings on R.C. 5 zoned land; on the northwest corner, a single-family dwelling on land zoned M.L.-C.R.; to the south and east R.C. 2 zoned land. The petitioner is requesting a change from R.C. 5 to R.C. 2 zoning and has chosen to submit plans that do not show a proposed use of the property.

Prior to the adoption of the 1980 Comprehensive Zoning Map, the subject property was zoned R.C. 5. The zoning of the site was not identified as a specific issue before either the Planning Board or the County Council during the preparation and processing of the map. The County Council reaffirmed R.C. 5 zoning here.

The Planning Board believes that the existing zoning is appropriate and that the zoning map is correct. The R.C. 5 zoning classification provides for a reasonable use of the site; residential development here would be in keeping with the existing development on the other three corners of the intersection of Long Green Pike and Glenarm Road.

It is therefore recommended that the existing zoning, R.C. 5, be retained.

Wallace Dann, Esquire
 Suite 517 - Chesapeake Building
 305 West Chesapeake Avenue
 Towson, Maryland 21204

August 26, 1981

NOTICE OF HEARING

RE: **Petition for Re-Classification**
Southeast corner of Long Green Pike & Glen Arm Road
Louis C. Hoffman, III, Et Ux
Case # R-82-66

TIME: 10:00 A.M.
 DATE: Wednesday, September 23, 1981 at 10:00 A.M.
 PLACE: Room 218, Courthouse, Towson, Maryland

cc: Mr. and Mrs. Louis C. Hoffman
 Box 203
 Glen Arm, Maryland 21037

William T. Hackett
 William T. Hackett, Chairman
 County Board of Appeals

494-3180

County Board of Appeals
 Room 218, Court House
 Towson, Maryland 21204

NOTICE OF ASSIGNMENT
OF CONTINUED HEARING FROM 9/23/81

NO POSTPONEMENTS WILL BE GRANTED WITHOUT GOOD AND SUFFICIENT REASONS. REQUESTS FOR POSTPONEMENTS MUST BE IN WRITING AND IN STRICT COMPLIANCE WITH BOARD RULE 2(b). ABSOLUTELY NO POSTPONEMENTS WILL BE GRANTED WITHIN FIFTEEN (15) DAYS OF SCHEDULED HEARING DATE IN ACCORDANCE WITH RULE 2(c), COUNTY COUNCIL BILL #108

CASE NO. R-82-66
 LOUIS G. HOFFMAN, III, ET UX
 for reclassification from R.C. 5 to R.C. 2
 SE corner Long Green Pike
 and Glen Arm Road
 11th District
 TUESDAY, NOVEMBER 17, 1981 at 10:00 a.m.
 ASSIGNED FOR: *John W. Hession*
 cc: Wallace Dann, Esq. Counsel for Petitioners
 Louis C. Hoffman, III Petitioner
 John W. Hession, III, Esq.
 Mr. W. E. Hammond
 Mr. J. E. Dyer
 Mr. N. E. Gerber
 Mr. J. G. Hoswell
 Board of Education

Edith T. Eisenhart, Adm. Secretary

FRANCIS XAVIER CARMODY, M.D., F.A.C.P.
 200 NORTH CHARLES STREET
 BALTIMORE, MARYLAND 21201

November 16, 1981

Chairman
 Board of Appeals
 Baltimore County

RE: Louis Hoffman

Dear Sir:

Mr. Louis Hoffman is unable to appear for the zoning hearing scheduled on Tuesday, November 17, 1981

He is under my care at Saint Joseph Hospital because of the onset of sudden unconsciousness.

I hereby certify under the penalties of perjury that the foregoing statement is true and correct.

Francis X. Carmody
 Francis X. Carmody, M.D.

FXC/cl

RECEIVED
 BALTIMORE COUNTY
 JUN 9 9 57 AM '81
 COUNTY BOARD OF APPEALS
 BY: *[Signature]*
 '81 JUN 11 11 11 AM
 BALTIMORE COUNTY

FIRST HEARING DATE - SEPTEMBER 23, 1981 - WEDNESDAY

CONTINUED ON - TUESDAY, NOVEMBER 17, 1981 at 10:00 a.m.

12/9/81 - Notices sent for CONTINUED HEARING set for THURSDAY, JANUARY 14, 1982 at 10 a.m.

494-3180

County Board of Appeals
 Room 219, Court House
 Towson, Maryland 21204
 March 31, 1982

Wallace Dann, Esq.
 Suite 517, Chesapeake Bldg.
 Towson, Md. 21204

Dear Mr. Dann:

Re: Case No. R-82-66 (Item #6)
 Louis C. Hoffman, III, et ux

Notice is hereby given, in accordance with the Rules of Procedure of the Court of Appeals of Maryland, that an appeal has been taken to the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter.

Enclosed is a copy of the Certificate of Notice.

Very truly yours,

June Holmen
 June Holmen, Secretary

Encl.
 cc: Louis C. Hoffman, III, et ux
 Bd. of Education
 W. E. Hammond
 J. E. Dyer
 N. Gerber
 J. Hoswell

494-3180

County Board of Appeals
 Room 219, Court House
 Towson, Maryland 21204
 March 31, 1982

John W. Hession, Esq.
 People's Counsel
 Court House
 Towson, Md. 21204

Dear Mr. Hession:

Re: Case No. R-82-66 (Item #6)
 Louis C. Hoffman, III, et ux

In accordance with Rule B-7 (a) of the Rules of Procedure of the Court of Appeals of Maryland, the County Board of Appeals is required to submit the record of proceedings of the zoning appeal which you have taken to the Circuit Court for Baltimore County in the above matter within thirty days.

The cost of the transcript of the record must be paid by you. Certified copies of any other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court not later than thirty days from the date of any petition you might file in court, in accordance with Rule B-7 (a).

Enclosed is a copy of the Certificate of Notice; also invoice covering the cost of certified copies of necessary documents.

Very truly yours,

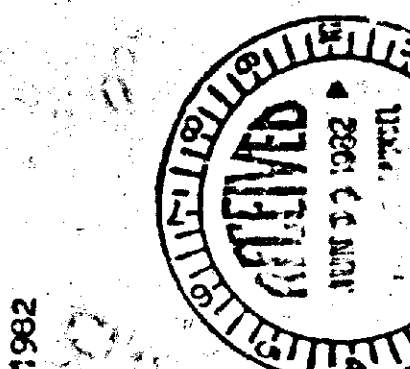
June Holmen
 June Holmen, Secretary

Encls.

Sandy Sandas - 494-2860
 Assignment - Jury - Motions
 Freddie Grove
 Assistant Clerk Typist
 Irene Summers - 494-2861
 Assignment - Jury - Motions
 Maria Encinas
 Assistant Clerk Typist

CIRCUIT COURT FOR BALTIMORE COUNTY

ASSIGNMENT OFFICE
 COUNTY COURTS BUILDING
 401 Bosley Avenue
 P.O. Box 6754
 Towson, Maryland 21204-0754
 June 8, 1982



TO: Peter Max Zimmermann, Esq.
 John W. Hession, III, Esq.
 Wallace Dann, Esq.
 June Holmen,

RE: Non-Jury-Law- 82-M-83-

RE: PETITION FOR RECLASSIFICATION FROM R.C. 5 TO R.C. 2 VS

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

HEARING DATE:

ON THE FOLLOWING:

Wednesday, August 25, 1982 @ 9:30 a.m.

Appeals 3- to 45 Minutes

UPON RECEIPT OF THIS NOTICE: Counsel shall contact each other immediately to confer calendar. Claims of not receiving notice will not constitute reason for postponement. If the above date is not agreeable in any counsel, a request for a postponement MUST BE MADE IN WRITING to the Assignment Office AS SOON AS POSSIBLE, with a copy to all counsel involved. POSTPONEMENTS WITHIN 15 DAYS OF TRIAL must be made to the attention of the Director of Central Assignments - Joyce Gram - 494-2497.

SETTLEMENT CONFERENCE: All counsel must secure the attendance of all parties necessary to effect a binding settlement, including clients and insurance representatives. THERE WILL BE NO EXCEPTIONS FOR ORDER OF JUDGE FRANK E. CICONE. Please direct all inquiries to the attention of John Adams.

SETTLEMENTS: If a settlement is reached prior to the hearing date, the Assignment Office must be notified immediately.

CBA Hearing set for Sept. 29, 1981, 10 am
ITEM NO. 6
PROPERTY OWNERS: Louis C. and Nancy C. Hoffman, III — R-82-66
LOCATION: S/E corner of Long Green Pike and Glenarm Road
ELECTION DISTRICT: 11 ACREAGE: 3.10
COUNCILMANIC DISTRICT: 5 GEOGRAPHICAL GROUP: None
RECOMMENDED DATE OF HEARING: Week of September 21, 1981 FUNCTIONAL CATEGORY: None

ZONING PRIOR TO ADOPTION OF 1980 COMPREHENSIVE ZONING MAP: R.C.5
EXISTING ZONING: R.C. 5
REQUESTED ZONING: R.C. 2

PLANNING BOARD RECOMMENDATION: Retain Existing Zoning (R.C. 5)

This vacant, wooded tract of land is located on the southeast corner of Long Green Pike and Glenarm Road. On the southwest and northeast corner of this intersection are single-family dwellings on R.C. 5 zoned land. On the northwest corner, a single-family dwelling on land zoned M.L.-C.F.; to the south and east R.C. 2 zoned land. The petitioner is requesting a change from R.C. 5 to R.C. 2 zoning and has chosen to submit plans that do not show a proposed use of the property.

Prior to the adoption of the 1980 Comprehensive Zoning Map, the subject property was zoned R.C. 5. The zoning of the site was not identified as a specific issue before either the Planning Board or the County Council during the preparation and processing of the map. The County Council reaffirmed R.C. 5 zoning here.

The Planning Board believes that the existing zoning is appropriate and that the zoning map is correct. The R.C. 5 zoning classification provides for a reasonable use of the site; residential development here would be in keeping with the existing development on the other three corners of the intersection of Long Green Pike and Glenarm Road.

It is therefore recommended that the existing zoning, R.C. 5, be retained.

BALTIMORE COUNTY ZONING REGULATIONS

AS AMENDED THROUGH OCTOBER 29, 1981

1981 EDITION

BALTIMORE COUNTY OFFICE OF PLANNING AND ZONING
TOWSON, MARYLAND

Section 1A01 - R.C.2 (AGRICULTURAL) ZONES [Bill No. 98-75]

1A01.1 - General provisions. [Bill No. 98-75]

A. Legislative Statement of Findings.

1. Declaration of findings. It is found:

- that Baltimore County is fortunate in that it is endowed with a variety of very productive agricultural soil types which should not be lost unnecessarily to urbanized development; [Bill No. 98-75]
- that the agricultural industry is an integral part of the Baltimore economy and that a continued conversion of agricultural land will continue to undermine this basic industry; [Bill No. 98-75]
- that scattered development is occurring in a sporadic fashion in areas of Baltimore County containing productive agricultural land; [Bill No. 98-75]
- that continued urban intrusion into productive agricultural areas not only destroys the specific area upon which the development occurs but is incompatible with the agricultural use of the surrounding area; [Bill No. 98-75]
- that heretofore Baltimore County has been unable to effectively stem the tide of new residential subdivisions in productive agricultural areas of Baltimore County; [Bill No. 98-75]
- that Baltimore County has certain wetlands along along Chesapeake Bay and its tributaries which serve as breeding grounds and nursery areas for the Bay's biotic life; [Bill No. 98-75]

C. that Baltimore County possesses numerous areas which are highly suitable for urban development including residential subdivisions which are not located in areas of productive agricultural land. [Bill No. 98-75]

B. Purposes: The R.C.2 zoning classification is established pursuant to the legislative findings above in order to foster conditions favorable to a continued agricultural use of the productive agricultural areas of Baltimore County by preventing incompatible forms and degrees of urban uses. [Bill No. 98-75]

1A01.2 - Use Regulations. [Bill No. 98-75]

A. Preferred use permitted as of right. Agricultural operations, when conducted in accordance with good and reasonable husbandry practices, shall be afforded preferential treatment over and above all other permitted uses in R.C. 2 zones. [Bill No. 98-75]

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1A01.2.B (RC-2)

B. Uses permitted as of right. 1 The following uses, only, are permitted as of right in all R.C. 2 zones: [Bill No. 178-79]

1. Dwellings, 1-family detached [Bill No. 178-79]

2. Farms, satellite farms, farmettes, and limited-acreage whole-sale flower farms [see Section 404] [Bill No. 178-79]

3. Open space, common [Bill No. 178-79]

3A. Public schools; privately sponsored care for school-age children before or after regular school hours as an ancillary use in a building used as a public school. [Bill No. 83-80]

4. Streets and ways [Bill No. 178-79]

5. Telephone, telegraph, electrical-power, or other lines or cables, provided that any such line or cable is underground; underground gas, water, or sewer mains or storm drains; or other underground conduits, except interstate or international pipelines. [Bill No. 178-79]

6. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of paragraphs b, c, e or f of subsection 415.1 and subparagraph 415.2.a(1) or 415.3.c(1), as applicable. [Bill No. 178-79]

7. Accessory uses or structures, including, but not limited to, the following:

a. Excavations, uncontrolled [Bill No. 178-79]

b. Farmers' roadside stands [see Section 404] [Bill No. 178-79]

c. Home occupations [Bill No. 178-79; No. 124-78] [see Section 101]

d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians, or persons engaged in other similar occupations, provided that the use is established within the building that serves as the owner's domicile; occupies a floor area no greater than 25% of the floor area used for residential purposes, not including garage floor area or unfinished basement space; and does not involve the employment of more than 2 non-residents. [Bill No. 178-79]

e. Parking space, including residential-garage space and space for recreational vehicle [see Section 415A] [Bill No. 178-79]

¹ Churches and schools for agriculture training were included in this section by Bill 98, 1975, and moved to 1A01.2.C by Bill 178 — 79.

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1A01.2.B.7.f (RC-2)

f. Piers, wharves, docks and bulkheads [subject to the provisions of Section 417] [Bill No. 178-79]

g. Radio antennas in conjunction with wireless transmitting or receiving facilities, provided that any such facility is used by a resident who has an amateur radio operator's license issued by the Federal Communications Commission. No such antenna may extend closer than the front building line to any street on which the lot may front; no rigid-structure antenna may be taller above grade level than the horizontal distance to the nearest property line or 100 feet, whichever is less; and no supporting structure may be situated within 50 feet of any property line [see also Section 400]. [Bill No. 178-79]

h. Swimming pools, tennis courts, garages, utility sheds or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400) [Bill No. 178-79]

i. TENANT HOUSES, INCLUDING TRAILERS USED AS TENANT HOUSES. [Bill No. 178-79]

C. Uses permitted by Special Exception.¹ The following uses, only, may be permitted by special exception in any R.C. 2 zone, provided that in each case the hearing authority empowered to hear the petition finds that the use would not be detrimental to the primary agricultural uses in its vicinity; and, in the case of any use permitted under Item 24, further provided that the hearing authority finds that the use would support the primary agricultural use in its vicinity and would not itself be situated on land more appropriately used for primary agricultural uses: [Bill No. 178-79]

¹ The following uses were included in this section by Bill No. 98-75 and deleted by Bill No. 178-79:

"Baseball batting ranges"
"Cemeteries"
"Community Bldgs. swimming pools"
"Fish hatcheries"
"Golf driving ranges, miniature-golf"
"Helistops"
"Hospitals"
"Nursing, convalescent homes"
"Railroads"
"Sanitariums"
"Shooting preserves"

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1A01.2.C.1 (RC-2)

- Airports [Bill No. 178-79]
- Animal boarding places (regardless of class), kennels, veterinarians' offices, or veterinarians' [see Section 421] [Bill No. 178-79]
- Antique shops [see Section 402B] [Bill No. 178-79]
- Camps, including day camps [Bill No. 178-79]
- Community care centers providing care for not more than 15 persons per site [Bill No. 178-79]
- Churches or other buildings for religious worship [Bill No. 178-79]
- Excavations, controlled [Bill No. 178-79]
- Farmers' roadside stands [Bill No. 178-79]
- Fishing and shellfishing facilities, Class I and II [Bill No. 178-79]

10. Golf courses or country clubs [Bill No. 178-79]

10A. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood; provided that (I) only three persons including the disabled person and the members of his immediate family who are residents of the dwelling are employed in the use on the premises; and (II) in any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home.

Any provision of subsection 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:

- Five years after the issuance of the permit;
- The death of a disabled person;
- The termination of the disability; or
- The failure of the disabled person to permanently reside at the premises.

A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. [Bill No. 27-81]

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1A01.2.C.11 (RC-2)

11. Hunting or fishing preserves [Bill No. 178-79]

12. Offices for agriculture-related uses; physicians' or dentists' offices as principal uses [Bill No. 178-79]

13. Public-utility uses not permitted as of right [Bill No. 178-79]

14. Research institutes [see Section 418] [Bill No. 178-79]

15. Residential art salons [see Section 402C] [Bill No. 178-79]

16. Restaurants or tea rooms converted from dwellings [see subsection 402.3] [Bill No. 178-79]

17. Riding stables [Bill No. 178-79]

18. Sanitary landfills [see Section 412] [Bill No. 178-79]

19. Schools, including schools for agricultural training, private preparatory schools, business or trade schools, conservatories, or colleges [Bill No. 178-79]

20. Shooting ranges, including archery, pistol, skeet, trap, or small-bore rifle ranges, or turkey shoots [Bill No. 178-79]

21. Trailers as provided in Paragraph 415.1.d [Bill No. 178-79]

22. Volunteer-fire-company or ambulance rescue facilities [Bill No. 178-79]

23. Wireless transmitting or receiving facilities as principal uses [Bill No. 178-79]

24. The following "agricultural-support" uses: [Bill No. 178-79]

a. Farm machinery sales, storage, or service; blacksmithing [Bill No. 178-79]

b. Feed or grain mills or driers [Bill No. 178-79]

c. Fertilizer sales or storage [Bill No. 178-79]

d. Sawmills [Bill No. 178-79]

e. Slaughter houses or manufacture, processing, or packing of fruit, vegetables, animal, or meat products, or by-products [Bill No. 178-79]

f. Wine or spirits manufacture, including the manufacture of alcohol to be used in gasoline-alcohol mixtures, but excluding the production of these mixtures (as a principal use) [Bill No. 178-79]

¹ not in Bill No. 98-75

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Section 1A04—R.C.5 (RURAL-RESIDENTIAL) ZONE [Bill No. 98-75]

1A04.1—General Provisions. [Bill No. 98-75]

A. Legislative Statement of Findings [Bill No. 98-75]

1. Declaration of findings. It is found:

a. That the rural-residential development that has occurred in Baltimore County heretofore has been of a scattered and generally disorderly nature; [Bill No. 98-75]

b. That this form of development constitutes a wasteful use of land and is fiscally expensive to serve with respect to the provision of basic services; [Bill No. 98-75]

c. That in some cases lot sizes are inadequate to assure long term adequacy of on-lot sewer and water systems; [Bill No. 98-75]

d. That unless measures are implemented to assure more rational growth patterns, including adequate lot size, undue financial hardships will be placed on Baltimore County and the life, safety and general welfare of the citizens of the County will be adversely affected; [Bill No. 98-75]

e. That specific areas which are highly suitable for rural-residential development do exist; and [Bill No. 98-75]

f. That these areas are adequate to accommodate anticipated future growth in the rural area and that future growth should be directed to these areas. [Bill No. 98-75]

B. Purpose. The R.C.5 zoning classification is established pursuant to the legislative findings above, in order to: [Bill No. 98-75]

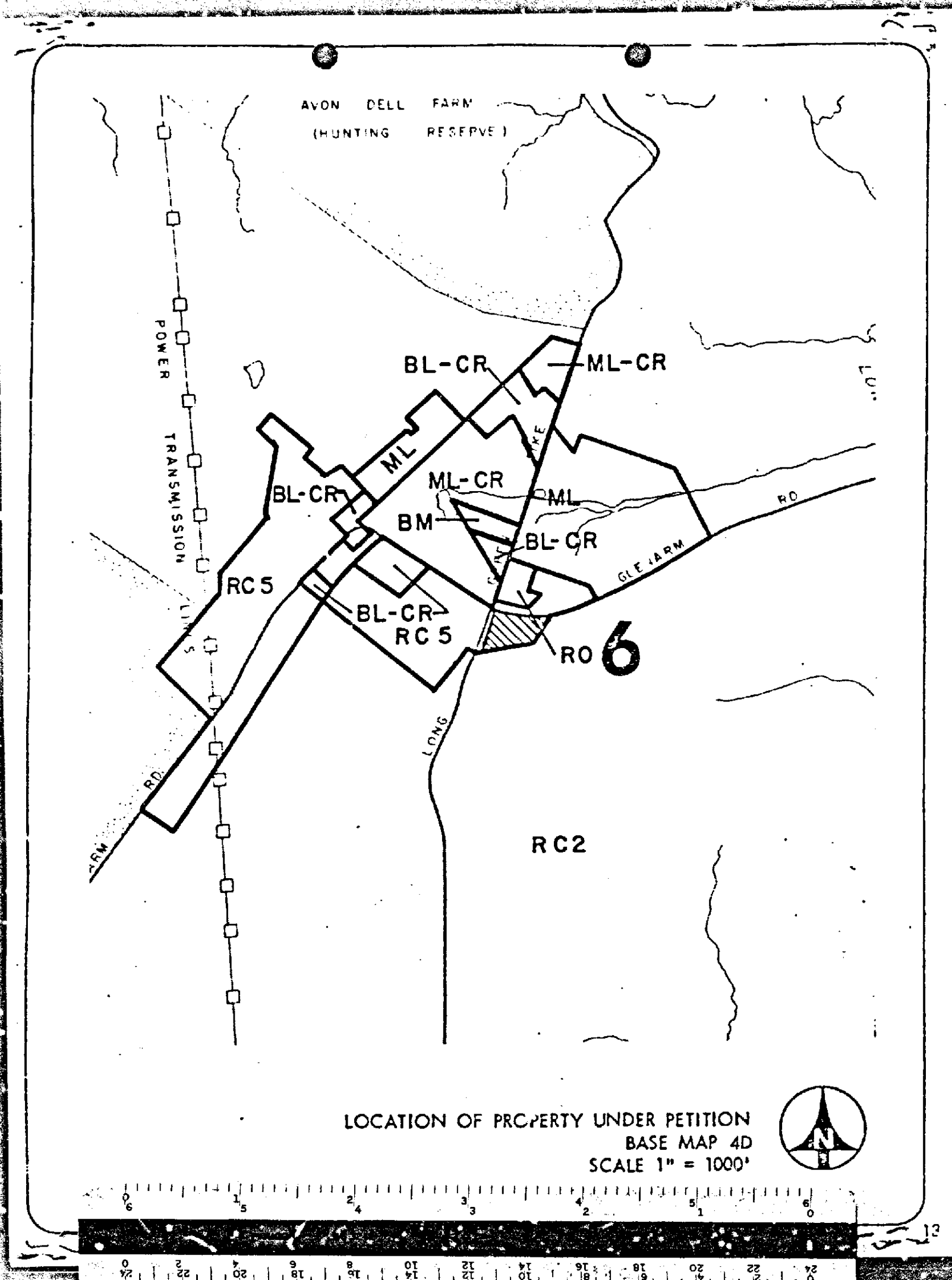
1. Provide for rural-residential development in suitable areas in which basic services are not anticipated. [Bill No. 98-75]

2. Eliminate scattered and generally disorderly patterns of future rural-residential development. [Bill No. 98-75]

3. Assure that encroachments onto productive or critical natural resource areas will be minimized. [Bill No. 98-75]

4. Provide a minimum lot size which is sufficient to provide adequate area for the proper functioning of on-lot sewer and water systems. [Bill No. 98-75]

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- (RC-5)
- 1A04.2—Use regulations [Bill No. 98-75]
- A. Uses permitted as of right. The following uses, only, are permitted as of right in R.C. 5 zones: [Bill No. 98-75]
1. Churches or other buildings for religious worship including church schools [Bill No. 98-75]
 2. Dwellings, one-family detached [Bill No. 98-75]
 3. Farms, limited-acreage wholesale flower farms, satellite farms [Bill No. 98-75]
 4. Farmettes [Bill No. 98-75]
 5. Hospitals [Bill No. 98-75]
 6. Open space, common [Bill No. 98-75]
 7. Schools, including but not limited to private preparatory schools, colleges, conservatories or other fine arts schools; privately sponsored care for school-age children before or after regular school hours as an ancillary use in a building used as a public school. [Bill Nos. 98-75; 63-80]
 8. Streets or ways [Bill No. 98-75]
 9. Telephone, telegraph, electrical-power, or other similar lines or cables—all underground; underground gas, water, or sewer mains or storm drains; other underground conduits except underground interstate and intercontinental pipe lines [Bill No. 98-75]
 10. Trailers, provided that any trailer allowed under this provision must be used or stored in accordance with the provisions of paragraphs b, c, e, or f of Subsection 415.1 and Subsection 415.2a(1) as applicable. [Bill No. 98-75]
 11. Accessory uses or structures, including, but not limited to, the following: [Bill No. 98-75]
 - a. Excavations, uncontrolled [Bill No. 98-75]
 - b. Farmers' roadside stands (subject to the provisions of Section 404.6) [Bill No. 98-75]
 - c. Home occupations [Bill No. 98-75]

- 1A04.2.A.11.d (RC-5)
- d. Offices or studios of physicians, dentists, lawyers, architects, engineers, artists, musicians or other professional persons, provided that any such office or studio is established within the same building as that serving as the professional person's bona fide residence as it existed on the effective date of this provision; and does not involve the employment of more than one nonresident professional associate nor two other nonresident employees [Bill No. 98-75]
 - e. Parking spaces including recreational vehicles (subject to the provisions of Section 415A) [Bill No. 98-75]
 - f. Piers, wharves, docks, and bulkheads (subject to the provisions of Section 417) [Bill No. 98-75]
 - g. Swimming pools, tennis courts, garages, utility sheds or other accessory structures or uses (subject to the height and area provisions for buildings as set forth in Section 400) [Bill No. 98-75]
- B. Uses permitted by special exception. The following uses, only, are permitted by special exception in R.C. 5 zones. [Bill No. 98-75]
1. Antique shops (subject to the provisions of Section 402B) [Bill No. 98-75]
 2. Boat yards [See Section 417 & 101] [Bill No. 98-75]
 3. Camps, including day camps [Bill No. 98-75]
 4. Ceries [Bill No. 98-75]
 5. Community buildings, swimming pools, or other uses of a civic, social, recreational, or educational nature, including tennis facilities, provided that no tennis facility shall comprise more than 4 courts. [See Section 406A] [Bill No. 98-75, 62-78]
 - 5A. Community care centers providing care for not more than 15 persons per site. [Bill No. 142-79]
 6. Excavations, controlled [Bill No. 98-75]
 7. Fishing and Shellfishing facilities, shoreline, Class I or II [Bill No. 30-78]
 8. Golf courses, country clubs, or other similar outdoor recreation clubs [Bill No. 98-75]

- 1A04.2.B.8A (RC-5)
- 8A. Home occupations of disabled persons, where the use is established in a structure originally constructed as a dwelling or as accessory to a dwelling or where the use is established in a structure that is situated on the same lot as a dwelling and which the Zoning Commissioner finds to be compatible with its surrounding neighborhood; provided that (i) only three persons including the disabled person and the members of his immediate family who are residents of the dwelling are employed in the use on the premises; and (ii) in any case the use is conducted by a disabled person whose domicile is the dwelling to which the use is accessory and whom the hearing authority finds is so severely disabled as to be unable to engage in his occupation away from the premises of his home. Any provision of subsection 502.2 to the contrary notwithstanding, any special exception granted pursuant to this item shall expire upon the first to occur of the following:
 - A) Five years after the issuance of the permit;
 - B) The death of the disabled person;
 - C) The termination of the disability; or
 - D) The failure of the disabled person to permanently reside at the premises.A new special exception for the use may be granted when the previous special exception expires but only upon the completion of the entire application and hearing process in the same manner as if it were the initial application for this special exception. It is the purpose of this provision to prevent the use of residential property for business purposes by an occupant other than a disabled person and to ensure that any occupation permitted pursuant to this item will be conducted in a manner appropriate to its surroundings. [Bill No. 27-81]
9. Marinas [See Section 417 & 101] [Bill No. 98-75]
 10. Office of doctor or dentist [Bill No. 98-75]
 11. Public-utility uses not permitted as of right, including underground interstate and intercontinental pipe lines [Bill No. 98-75]
 12. Research institutes (subject to the provisions of Section 418) [Bill No. 98-75]
 13. Railroads or other transportation lines or ways [Bill No. 98-75]
 14. Residential art salons (subject to the provisions of Section 402C) [Bill No. 98-75]
 15. Restaurants or tea rooms, converted from dwellings or other buildings as provided in Subsection 402.3 [Bill No. 98-75]

- 1A04.2.B.16 (RC-5)
16. Riding stables (Commercial or non-commercial) [Bill No. 98-75]
 17. Sanitary landfills [Bill No. 98-75]
 18. Schools, not permitted as of right [Bill No. 98-75]
 19. Trailers (subject to the provisions of Section 415.1d) [Bill No. 98-75]
 20. Volunteer-fire-company or ambulance-rescue facilities [Bill No. 98-75]
 21. Wireless transmitting and receiving structures, except that a radio antenna in conjunction with transmitting and receiving facilities used by a resident amateur radio operator possessing an amateur radio operator's license issued by the Federal Communications Commission shall be considered an accessory structure, or, if attached to another structure, an accessory use, and, as such, is permitted without a special exception, provided: (a) that if it is an accessory structure, it shall be subject to the provisions of Section 400; (b) that if it is a rigid-structure antenna, it shall be no higher than 100 feet or the horizontal distance to the nearest property line, whichever is less, above grade level, and no supporting structure thereof shall be closer than 50 feet to any property line; and, further, (c) that it does not extend closer to the street on which the lot fronts than the front building line. [Bill No. 98-75]

494-3180

County Board of Appeals
Room 219, Court House
TOWSON, MARYLAND 21204
January 14, 1983

Mr. Julius A. Romano
Clerk of the Court of Special Appeals of Maryland
Annapolis, Maryland 21404

Re: Misc. No. 82-M-83
Louis C. Hoffman, III

Dear Mr. Romano:

Please forward to this office a copy of the opinion in the above entitled case when it is filed by the Court of Special Appeals. We would appreciate it if you would note our request in your file on this case. Thank you.

Very truly yours,

Edith T. Eisenhart
Edith T. Eisenhart, Adm. Secretary

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND
No. 1392
September Term, 1982
#R-82-66

PEOPLE'S COUNSEL FOR
BALTIMORE COUNTY

v.

LOUIS C. HOFFMAN, III, et ux,

Moylan
Bishop
Garrity,
JJ.

PER CURIAM

Filed: May 2, 1983

Rec'd 5-3-83 1:15 PM

PER CURIAM

People's Counsel for Baltimore County appeals an order of the Circuit Court for Baltimore County affirming the granting by the County Board of Appeals for Baltimore County of appellees' request for zoning reclassification from R.C. 5 (Rural-Residential) to R.C. 2 (Agricultural).

The only question raised in this appeal is whether the Circuit Court and the County Board of Appeals erroneously granted the zoning reclassification where there was no substantial evidence to support error in the comprehensive zoning.

The property, which is the subject of the Petition for Reclassification, is a 3.1 acre tract located on the southeast corner of Glen Arm Road and Long Green Pike in the northeastern section of Baltimore County. The Planning Board recommendation on the Petition for Reclassification contained the following:

"On the southwest and northeast corner of this intersection are single-family dwellings on R.C. 5 zoned land; on the northwest corner, a single family dwelling on land zoned M.L.-C.R.; to the south and east R.C. 2 zoned land."

In addition, the Planning Board recommendation also points out that prior to the adoption of the 1980 Comprehensive Zoning Map the property had been zoned R.C. 5 and that this zoning was reaffirmed by the adoption of that map.

only one home could be constructed on the property, and the only view afforded to this home would be the factory containing the Grumman Aerospace Unit. He pointed out that this would be financially impracticable since the other single family units in the area are built on one-half acre lots, and because of the relationship of the lot to the heavy manufacturing and light manufacturing in the area.

Petitioners also produced Rudolph F. Fischer, Jr., a custom home builder for twenty-five years, who testified that the Council erred in placing the present classification on the property. Mr. Fischer lives in close proximity to the subject property, and as the Board of Appeals pointed out in its opinion "testified that he personally inspected the site and felt that not even one home could be granted permits for erection, since the only percolation test that passed would place the sewerage system on a higher elevation than the home or its well and, therefore, no permit would be granted."

Two residents of the neighborhood, John H. Kempske and Donald L. Tombaugh, Sr., testified in favor of the Petition.

The County Agricultural Agent, C. Richard Curran, testified that he favored the reclassification of the parcel to R.C. 2 and that to designate this parcel R.C. 5

Appellant cites Howard County v. Dorsey, 292 Md. 351 (1981); Boyce v. Sembly, 25 Md. App. 43 (1975); Coppolino v. County Board of Appeals of Baltimore County, 23 Md. App. 358 (1974) for the proposition that:

"In order to overcome a comprehensive zoning established by the County Council, the property owner must produce strong evidence of error. Error can be established by showing that the assumptions or premises relied upon by the Council were invalid; that the Council failed to take into account then existing facts, projects, or trends; and/or that subsequent events proved the Council's initial premises to be incorrect."

Appellant then continues to argue that there was no error in the comprehensive rezoning because none of the basis of error set out above was present in this case.

We disagree. A careful reading of the Planning Board recommendation makes it clear that the Planning Board did not consider the panhandle parcel containing a common potable water supply and its location abutting the subject property. Neither did the Planning Board consider the affect of that location of the potable water supply property on the location of any sewerage facility on the subject property. Since there is nothing in the record to indicate otherwise, the foregoing must not have been before the County Council at the time of the adoption of the 1980 Comprehensive Zoning Map.

"... in order to grant the requested reclassification, the Board needed strong and substantial probative evidence that there was a 'mistake' or 'error' in the comprehensive zoning.... In order to assess the evidence before the Board, it is necessary to understand the inherent nature of the terms 'mistake' or 'error' as they are used in zoning law. ... the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were invalid. Error can be established by showing that at the time of the comprehensive zoning the Council failed to take into account then existing facts,... so that the Council's action was premised initially on a misapprehension. (Citations omitted)."

* * *

...in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning. Bonnie View Club, supra, at 242 Md. 48-49, 32-217 A.2d 649, 651 (mineshaft and subsurface rock formation); by adducing testimony on the part of those preparing the plan that then existing facts were not taken into account, Overton, supra at 225 Md. 216-17, 170 A.2d 174-75 (topography), or by producing evidence that the Council failed to make any provision to accommodate a project, trend or need which it, itself, recognized as existing at the time of the comprehensive zoning, Joba Corp., supra, at 236 Md. 116-17, 202 A.2d 617-18 (need for apartments). See Rohde, supra, at 234 Md. 267-68, 199 A.2d 221."

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY : IN THE COURT OF APPEALS
OF MARYLAND
Petitioner : September Term, 1983
v. : Petition No. _____
LOUIS C. HOFFMAN, III, : # R-82-66
et ux., :
Respondents :
::: :::

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF SPECIAL APPEALS OF MARYLAND

People's Counsel for Baltimore County, Petitioner, pursuant to Maryland Rules 810-11, requests this Court to issue a writ of certiorari to the Court of Special Appeals, as follows:

(a) The instant case was docketed in the Circuit Court for Baltimore County as People's Counsel v. Hoffman, Miscellaneous No. 82-M-83.

(b) The case was decided by the Court of Special Appeals, and its per curiam opinion in No. 1392, September Term, 1982, filed May 2, 1983, is appended hereto as Exhibit A.

(c) The judgment of the Circuit Court for Baltimore County was dated August 27, 1982. That Court's Memorandum and Order is appended as Exhibit B. The Mandate of the Court of Special Appeals affirmed the lower Court judgment and that of the administrative agency. The County Board of Appeals' Opinion is appended as Exhibit C.

(d) The questions presented for review are:

1. May the 1980 Comprehensive Zoning properly be overturned by a 1981 purchaser who desires a different zoning classification to satisfy his personal needs, where the existing zoning had been enacted without objection and provided for other

Filed 6-14-83
11:30 am
82-83
Filed

reasonable uses of the property?

2. May the 1980 Comprehensive Zoning be overturned by attributing to the County Council a perceived omission in the 1981 recommendation of the Planning Board on the piecemeal rezoning petition without any direct evidence that the Council itself was misinformed?

3. May the 1980 Comprehensive Zoning be overturned where a plebiscite of the neighbors effectively and substantially contributes to the decision?

(e) The applicable provisions of the Baltimore County Code and Baltimore County Zoning Regulations are appended hereto as Exhibit D.

(f) Statement of Facts in Support of Petition.

In Baltimore County, the County Council enacts county-wide comprehensive zoning maps every four years. Baltimore County Code Section 22-20 to 22-23 (1978, 1981 Supp.); See Coppolino v. County Board of Appeals of Baltimore County, 23 Md. 358 (1974). In the course of this process, all properties in Baltimore County are at issue. Moreover, property owners and other interested persons have the opportunity to designate specific issues for County Council review and consideration and to appear and be heard at public hearings.

The property in question is at the southeast corner of the intersection of Glen Arm Road and Long Green Pike in the northeastern section of Baltimore County. In the 1980 Comprehensive Zoning process, the County Council considered it in the course of the county-wide review and retained the existing zoning R.C. 5 (rural-residential). Neither the then property owner nor any other interested person designated the property for review of specific issues, and there was no testimony before the Planning Board or County Council pertaining to the property.

In 1981, Louis Hoffman and his wife bought the property for the purpose of a farmers' co-op roadside stand. To satisfy their development purpose, they would have to secure a zoning change. The existing zoning permits farming, orchards, residential, and other listed uses, but does not permit a farmers' co-op roadside stand. Baltimore County Zoning Regulations Section 1A04.2. (Appendix D) Accordingly, the Hoffmans sought this piecemeal rezoning to R.C. 2 (agricultural), a zoning classification almost identical in its application to the subject property also permitting farming, orchards, and the same effective residential density. Baltimore County Zoning Regulations Section 1A01. There was, however, this difference, that the R.C. 2 classification permits a farmers' co-op roadside stand. Baltimore County Zoning Regulations Section 1A01.2C.8.

In 1981, the Planning Board reviewed the request for piecemeal rezoning and recommended retention of the existing zoning and considered residential use as reasonable. The County Board of Appeals thereupon held an evidentiary hearing. The thrust of the Petitioners' case was two-fold; first of all, that the property was unsuitable for residential use because of its location and certain water supply and septic system problems; and secondly, that everyone in the neighborhood was aware of the plans for a market and approved of them. The People's Counsel opposed the concept of the rezoning petition, and submitted that it was not the function of the administrative zoning process to suit the personal needs of a property owner and thereby, in effect, to "spot" a chosen use. This concept would be especially inappropriate where the existing and requested zoning classifications were similar and both provided reasonable uses for the property.

The County Board of Appeals nevertheless accepted the contentions of the Hoffmans, found the property unsuitable for residential use, and underlined the apparent

failure of the Planning Board in 1981 to consider the site development problems. From this failure in the 1981 Planning Board recommendation, it was then "assumed" that the County Council was guilty of the same failure in 1980. The sole direct testimony produced as to the 1980 legislative process was that the property had not been designated by the property owner or any other interested person as a specific issue. There was no evidence showing precisely that the Council was ignorant of any relevant facts or guilty of a failure to take such facts into account. The County Board of Appeals' finding of error in the comprehensive zoning was sustained in both the Circuit Court for Baltimore County and the Court of Special Appeals of Maryland, and the reasons given the same.

The Court of Special Appeals said this early in its Opinion (page 2):

"Appellee, Louis Hoffman and his family had been farmers and orchardists in the area for approximately thirty five years. If the property is reclassified, they intend to erect a Farmer's Co-op Market for the farmers located in the immediate vicinity. Everyone in the neighborhood is aware of appellees' plans and approves of them."

Later, consistent with the rationale of the County Board of Appeals, the appellate Court said (page 5):

"A careful reading of the Planning Board recommendation makes it clear that the Planning Board did not consider the panhandle parcel containing a common potable water supply and its location abutting the subject property. Neither did the Planning Board consider the affect of that location of the potable water supply property on the location of any sewerage facility on the subject property. Since there is nothing in the record to indicate otherwise, the foregoing must not have been before the County Council at the time of the 1980 Comprehensive Zoning Map."

This led to the conclusion that evidence of "mistake or error in the adoption of the 1980 Comprehensive Zoning Map was fairly debatable." (page 8)

(g) Argument in Support of Petition.

The 1980 Baltimore County Countywide Zoning Map was unquestionably comprehensive. It covered a substantial area; resulted from careful consideration and long and extensive study; was designed to control and direct the use of land and buildings according to present and planned future conditions; and generally bore a reasonable relationship to the public safety, health, and welfare. See Trustees of McDonogh v. Baltimore County, 221 Md. 250 (1960), McBee v. Baltimore County, 221 Md. 312 (1960), Scull v. Coleman, 251 Md. 6 (1968), Ark Ready-Mix Concrete Corporation v. Smith, 251 Md. 1 (1968), Nottingham Village, Inc. v. Baltimore County, 266 Md. 339 (1972). Because of the importance of comprehensiveness to the validity and reasonableness of zoning legislation enacted pursuant to the police power, the Maryland courts have accorded a strong presumption of validity to legislative judgment and have narrowly defined the boundaries for an administrative finding of "error." Howard County v. Dorsey, 292 Md. 351 (1982), Boyce v. Sembly, 25 Md. App. 43 (1975).

It is not the function of comprehensive zoning to classify property with a view to catering for the sole benefit of private interests or the distribution of political favors. Accordingly, "spot zoning" is illegal where it favors essentially private interests. Trustees of McDonogh, supra, Hewitt v. Baltimore County, 220 Md. 48 (1959). By analogy, it is inappropriate for a plebiscite of neighbors to influence a zoning decision. See Cabin John Limited Partnership v. Montgomery County Council, 259 Md. 66 (1970), Smith v. County Commissioners of Howard County, 252 Md. 280 (1969).

But this is essentially what has happened here. The County Board of Appeals, followed in succession by the courts, has substituted its judgment for that of the legislature and has permitted the Hoffmans to "spot" their chosen personal use. The political nature

The appellees purchased the property for \$36,000.00 in February of 1981, subsequent to the adoption of the 1980 Comprehensive Zoning Map. Appellee, Louis Hoffman and his family had been farmers and orchardists in the area for approximately thirty five years. If the property is reclassified, they intend to erect a Farmer's Co-op Market for the farmers located in the immediate vicinity. Everyone in the neighborhood is aware of appellees' plans and approves of them. A County Agricultural Agent testified that the reclassification of the property to R.C. 2 would be in keeping with the agricultural nature of the area, and would further the preservation of agricultural use of land in Baltimore County.

Robert S. Gaines, real estate broker, land developer and real estate syndicator, was qualified as an expert and who testified that the present classification was an error. He brought to the attention of the Board something that was not included in the Planning Board recommendation. There exists a pan handle parcel, some two hundred plus or minus feet long by thirty feet wide that contains a common potable water supply for several neighboring residences. Because of this and the slopes involved in the subject property, along with the failure of percolation tests on most of the subject property,

in the midst of large areas strictly farm land classified R.C. 2 was an error.

For the appellant only one witness testified, James Hoswell, a Planner for Baltimore County. He said it was his opinion that the existing zoning was appropriate because to the south and east of the subject site was R.C. 2 zoning; on the southwest corner of the intersection was R.C. 5 zoning with dwelling houses already erected; on the northwest corner was industrial zoning with residences, a Post Office and a lumber yard; and on the northeast corner R.C. 5 and residential office zoning, with a lawn and homes, and further north industrial zoning where the Grumman Aerospace Plant was located. He also testified that he did not think that the topography was severe.

Mr. Hoswell further pointed out that in 1980 the County Council retained the previously existing R.C. 5 zoning on this parcel, and that no one made this a specific issue before the County Council. He further pointed out that the R.C. 5 and R.C. 2 zoning classifications are almost identical since both permit farming, orchards or residential use, and the effected permitted residential density in both classifications is the same for the subject property. It is only in the requested R.C. 2 classification that a Farmer's Co-op Roadside Stand would be permitted, as well as ordinary roadside stands accessory to individual farms.

We believe the factual situation in the case sub judice is quite different from the factual situations set out in Howard County, Boyce and Coppolino, supra.

The County Board of Appeals of Baltimore County wrote an excellent opinion in this case, and we adopt the following from the concluding paragraph of its opinion:

"The Board has no way of knowing what facts were presented to the Planning Board, but their recommendation for retention of the R.C. 5 classification, as noted in their report, cites a reasonable use of the property as residential development yet testimony from witnesses intimately familiar with the subject site indicates residential development is not only impracticable, but virtually impossible. No mention in the report is made of the pan handle water supply parcel and the restriction it imposes on the use of the property residentially. In addition, actual percolation tests had been conducted and failed, except for the area, this particular area being not suitable for residential use... since no issue regarding this property was raised in either the 1976 or the 1980 comprehensive map process, the Board must assume these facts were also not before the County Council when it affirmed the R.C. 5 zoning."

Although in Boyce v. Sembly, 25 Md. App. 43 (1975) we found the evidence insufficient to make the question of error or mistake fairly debatable. Through Judge Davidson we did set out in a comprehensive fashion the basis for our review of the evidence upon which an administrative zoning agency bases its decision:

Based on our review of the record in this case and our analysis of the evidence, supra, we hold that the finding of the Board that there was mistake or error in the adoption of the 1980 Comprehensive Zoning Map was fairly debatable and we, therefore, affirm the judgment of the Circuit Court for Baltimore County. Boyce, supra; Overton v. County Commissioners, 225 Md. 216 (1960).

JUDGMENT AFFIRMED.
COSTS TO BE PAID BY
APPELLANT.

of the case was scarcely concealed even in the opinion of the Court of Special Appeals.

If zoning rightly is considered as involving the reasonable division of land in a political subdivision according to use, area, and height, then it cannot properly turn on personality and neighborhood feeling. To be sure, representative government must respond to the needs of constituents; but the legislature is assigned the responsibility to make policy.

Here, after the County Council had concluded the difficult work of establishing the 1980 Countywide Comprehensive Zoning Map, the Hoffmans chose voluntarily to buy this property and oppose for the first time the duly enacted zoning classification. They object not because of any genuine evidence of error relating to the property in 1980, but simply because they wanted the one use of the property which differentiated the requested zoning from the existing zoning.

To reach the political result, the County Board of Appeals and the courts accepted the property owners' suggestion that omissions in the 1981 Planning Board report should be attributed to the County Council in 1980 as error. They criticized the report as if the Planning Board had been delegated the responsibility to legislate in Baltimore County. But the Planning Board function is advisory only, and limited to the role of providing a non-binding recommendation. Nottingham, supra; Stump v. Grand Lodge of Masons, 45 Md. App. 263 (1980). Just as it would be illegal to delegate the legislative power to the citizens' advisory board, it is certainly illegal to saddle the 1980 County Council with any omission of that same citizens' advisory board in 1981.

CONCLUSION

We have perceived a disturbing trend in these zoning cases. First of all, applicants isolate a preferred use. Secondly, they solicit neighborhood approval, or at least neutrality. Thirdly, they set up the Planning Board recommendation on the petition as a strawman from which to launch an attack on the judgment of the County Council. Typically, the property owner has failed to designate the property as a specific issue in the comprehensive zoning process or to appear at appropriate County Council hearings. Sometimes, the same property owner then seeks the piecemeal rezoning. In the present case, the new property owners bought into the potential rezoning. In either situation, the result is the same. The integrity of the comprehensive zoning process is subverted, and the County board of Appeals transformed into a policymaking body.

We perceive this trend despite strong language from the Court of Appeals generally according comprehensive zoning the strong presumption in favor of its validity. There is a need, therefore, for further clarification and reinforcement of this principle. The granting of this Petition for Certiorari will provide an excellent opportunity for further clarification of the error concept and guidance for all participants in the zoning process.

Respectfully submitted,

John W. Hessian, III
John W. Hessian, III
People's Counsel for Baltimore County

Peter Max Zimmerman
Peter Max Zimmerman
Deputy People's Counsel
Room 223, Court House
Towson, Maryland 21204
494-2188

Wallace Dann
ATTORNEY AND COUNSELLOR AT LAW
SUITE 517
CHESAPEAKE BUILDING
305 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 521-0840

ASSOCIATE
DAVID M. LAYTON
RAYMOND V. RANGLE

June 16, 1983

Alexander L. Cummings, Esquire
Clerk, Court of Appeals of Maryland
Courts of Appeal Building
361 Rowe Boulevard
Annapolis, Maryland 21401

RE: People's Counsel for Baltimore
County v. Louis C. Hoffman, III
September Term 1983, No. 215

Dear Mr. Cummings:

Enclosed is the original and seven copies of our Answer to Petition for Writ of Certiorari to the Court of Special Appeals of Maryland and a Certification of Mailing in the above-entitled matter.

Very truly yours,

Wallace Dann
WALLACE DANN

WD/bm
Enclosures

cc: John W. Hessian, III, Esquire
Peter Max Zimmerman, Esquire ✓

IN THE
COURT OF APPEALS OF MARYLAND
SEPTEMBER TERM, 1983

NO. 215

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY,
Petitioner

vs.

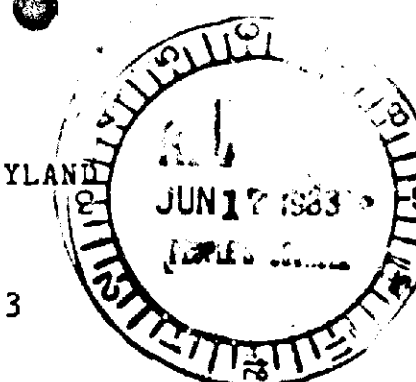
LOUIS C. HOFFMAN, III, et ux.,
Respondents

ANSWER TO PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF SPECIAL APPEALS OF MARYLAND

PETER MAX ZIMMERMAN
Deputy People's Counsel
for Baltimore County
Room 223, Court House
Towson, Maryland 21204

JOHN W. HESSIAN, III
People's Counsel for
Baltimore County
Room 223, Court House
Towson, Maryland 21204

WALLACE DANN
Attorney for Respondents
305 W. Chesapeake Avenue
517 Chesapeake Building
Towson, Maryland 21204



IN THE
COURT OF APPEALS OF MARYLAND

SEPTEMBER TERM, 1983

NO. 215

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY,
Petitioner

vs.

LOUIS C. HOFFMAN, III, et ux.,
Respondents

ANSWER TO PETITION FOR WRIT OF CERTIORARI
TO THE COURT OF SPECIAL APPEALS OF MARYLAND

The Respondents, LOUIS C. HOFFMAN, III and NANCY
HOFFMAN, for answer to the Petition filed by Petitioner,
PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, state that the issues
raised and the questions presented for review were properly
decided by the Court of Special Appeals and none of them raise
an issue of such special interest to the public as to require
review by the Court of Appeals.

ARGUMENT

The questions presented for review by the Petitioner
distort the pertinent issues in the form in which they were
presented to the Board of Appeals of Baltimore County, to the
Circuit Court for Baltimore County and to the Court of Special
Appeals of Maryland.

2

The matter of the reclassification from RC 5 down-
wards to RC 2 in any event is basically moot, because the
expert who testified before the Board of Appeals on behalf of
the Planning Department of Baltimore County stated that
irrespective of the outcome of this litigation that the
Department will recommend the change requested by the
Petitioners in the 1984 comprehensive zoning map.

Substantial evidence was adduced upon which the Board
of Appeals of Baltimore County could find, and did find, that
the factual basis upon which the property was originally zoned
or classified in the 1980 comprehensive zoning map was in
error.

The presumption of validity of the zoning action is
overcome and error or mistake is established when probative
evidence is produced to show that the underlying premises of
the county council were false, which in turn can be
demonstrated by proof that those who prepared the plan were
uninformed of, or did not take into account, existing facts.
Boyce v. Sembly, 25 Md. App. 43, 334 A.2d 137 (1975).

The opinion of the Board of Appeals of Baltimore
County is devoid of any matter of substance which would
justify the raising of question number 3 before this Court;
nor has this issue been raised heretofore.

Respectfully submitted,

Wallace Dann
WALLACE DANN
517 Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
301-321-0940

CERTIFICATE OF MAILING

I HEREBY CERTIFY, that on this 16th day of June, 1983,
a copy of the foregoing Answer was mailed to Peter Max
Zimmerman, Esquire and John W. Hessian, III, Esquire, Room
223, Court House, Towson, Maryland 21204, attorneys for the
Petitioner.

Wallace Dann
WALLACE DANN

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 102690

DATE 12/28/81 ACCOUNT 01-662

AMOUNT \$51.31

RECEIVED Wallace Dann, Esquire

FOR 2nd Full page add of Case #R-82-66 (Hoffman)

24574028 513144

VALIDATION OR SIGNATURE OF CASHIER

PEOPLE'S COUNSEL FOR BALTIMORE
COUNTY

In the
Court of Appeals
of Maryland

Petition Docket No. 215

September Term, 1983

(No. 1398, September Term, 1982
Court of Special Appeals)

ORDER

Upon consideration of the petition for a writ of certiorari to the Court of
and the answer filed thereto,
Special Appeals in the above entitled case, it is

ORDERED, by the Court of Appeals of Maryland, that the petition be, and
it is hereby, denied as there has been no showing that review by certiorari is desirable
and in the public interest.

/s/ Robert C. Murphy
Chief Judge

Date: September 14, 1983.

*Rec'd 9-19-83
12:45 PM*

494-3180

County Board of Appeals
Room 219, Court House
Towson, Maryland 21204
March 3, 1982

Wallace Dann, Esq.
Suite 517, Chesapeake Bldg.
Towson, Md. 21204

Dear Mr. Dann:

Re: Case No. R-82-66 (Item #6)
Louis C. Hoffman, III, et ux

Enclosed herewith is a copy of the Opinion and Order
passed today by the County Board of Appeals in the above entitled case.

Very truly yours,

John Holman
John Holman, Secretary

Encls.
cc: Louis C. Hoffman, III
J. W. Hessian, Esq.
W. E. Hammond
J. E. Dyer
N. E. Gerber
J. Hoswell
Board of Education

Wallace Dann

ATTORNEY AND COUNSELLOR AT LAW
SUITE 517
CHESAPEAKE BUILDING
305 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 321-0940

December 16, 1981

Ms. Karen Riegel
Room 113, County Office Building
Towson, Maryland 21204

RE: Louis C. Hoffman, III, et ux.
Case #R-82-66

Dear Ms. Riegel:

Enclosed herewith please find check, drawn to the order
of Baltimore County, Maryland in the amount of \$51.31 covering
advertising and posting of the property which is the subject
of the above-captioned matter.

Thank you for your attention to this matter.

Very truly yours,

Wallace Dann
Wallace Dann

Enclosure
WD:dj

*R-82-66
Hoffman
is completely paid
(per Karen 12/29/81)*

J.A.

Wallace Dann

ATTORNEY AND COUNSELLOR AT LAW
SUITE 517
CHESAPEAKE BUILDING
305 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND 21204
(301) 321-0940

September 29, 1981

ASSOCIATES
DAVID M. LAYTON
RAYMOND V. RANGLE

Baltimore County Office of
Planning & Zoning
Room 113
County Office Building
Towson, Maryland 21204

ATTN: Ms. Karen Riegel

RE: Petition for re-classification
SE/cor. of Long Green Pike & Glen
Arm Rd.
Louis C. Hoffman, III, Et Ux -
Petitioners Case #R-82-66

Dear Ms. Riegel:

Enclosed herewith please find our check drawn to the
order of Baltimore County, Maryland in the amount of \$70.50 to
cover the cost of advertising and posting of the above-
captioned property.

Thank you for your attention to this matter.

Very truly yours,

Wallace Dann
Wallace Dann

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 101646

DATE 10/5/81 ACCOUNT 01-663

AMOUNT \$70.50

RECEIVED Wallace Dann, Esquire

FOR Posting & Advertising of Case #R-82-66 (Hoffman)

VALIDATION OR SIGNATURE OF CASHIER

CERTIFICATE OF POSTING
ZONING DEPARTMENT OF BALTIMORE COUNTY
Towson, Maryland

District 11 Date of Posting 9/7/81
Posted for: Petition for Reclassification
Petitioner: Louis C. Hoffman, III
Location of property: SE 1/4 Long Green Pike &
Glen Arm Rd.
Location of Signs: facing intersection of Long Green
Pike & Glen Arm Rd.
Remarks: None
Posted by: Karen Riegel Date of return: 9/11/81
Number of Signs: 2

CASE NO. R-82-66 AT LAW
RECEIVED FROM THE COUNTY BOARD OF APPEALS
TRANSCRIPT, CERTIFIED DOCUMENTS, EXHIBITS,
AND BOARD'S ANSWER FILED IN THE ABOVE
ENTITLED CASE.
Clerk's Office
Date: May 5, 1982

No. 100464
BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE-REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT
DATE 8/25/81 ACCOUNT 01-663
AMOUNT \$50.00
RECEIVED FROM Wallace Dann, Esquire
FOR Filing Fee for Case #R-82-66
500
VALIDATION OR SIGNATURE OF CASHIER

Petition for Re-Classification

11TH DISTRICT
ZONING: Petition for Re-classification

LOCATION: Southeast corner of Long Green Pike and Glen Arm Road

DATE & TIME: Wednesday, September 23, 1981 at 10:30 A.M.

PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The County Board of Appeals for Baltimore County, by authority of the Baltimore County Charter, will hold a public hearing:

Present Zoning: R.C. 5
Proposed Zoning: R.C. 2

ALL THAT PARCEL OF LAND in the Eleventh District of Baltimore County.

BEGINNING FOR THE SAME at the intersection formed by the centerline of Long Green Pike and the centerline of Glen Arm Road, running thence and binding on the centerline of Long Green Pike South 33 degrees 19 minutes 55 seconds West 277.82 feet, thence leaving said road and running South 43 degrees 23 minutes 35 seconds East 23.72 feet, South 85 degrees 36 minutes 35 seconds East 103.07 feet, South 70 degrees 49 minutes 45 seconds East 59.53 feet, South 17 degrees 42 minutes 35 seconds East 33.41 feet, South 71 degrees 47 minutes 35 seconds West 15.66 feet, North 63 degrees 59 minutes 3 seconds West 60.00 feet, North 55 degrees 36 minutes 35 seconds West 114.66 feet, North 43 degrees 23 minutes 35 seconds West 25.54 feet to the centerline of Long Green Pike, binding on said Pike South 50 degrees 19 minutes 55 seconds West 120.60 feet, thence leaving Long Green Pike and running North 54 degrees 08 minutes 10 seconds East 525.31 feet and North 42 degrees 50 minutes 00 minutes East 254.12 feet to the center of Glen Arm Road, running thence binding thereon North 79 degrees 53 minutes 00 seconds West 104.00 feet, North 78 degrees 53 minutes 00 seconds West 100.00 feet, North 70 degrees 49 minutes 45 seconds West 100.00 feet and North 70 degrees 49 minutes 45 seconds West 100.00 feet to the place of beginning.

CONTAINING 3.1 acres of land, more or less, BEING the property of Louis C. Hoffman III and wife.

Being the property of Louis C. Hoffman, III, et ux, as shown on plat plan

filed with the Zoning Department.

Hearing Date: Wednesday, September 23, 1981 at 10:00 A.M.

Public Hearing: Room 218, Courthouse, Towson, Maryland.

By Order Of William T. Hackett, Chairman

County Board of Appeals of Baltimore County

The Times

Middle River, Md., Sept 2 1981

This is to Certify, That the annexed

Notice

was inserted in The Times, a newspaper printed

and published in Baltimore County, once in each

of one successive

weeks before the 2nd day of

Sept, 1981

William T. Hackett Publisher.

PETITION FOR RE-CLASSIFICATION 11th DISTRICT

ZONING: Petition for Re-Classification

LOCATION: Southeast corner of Long Green Pike and Glen Arm Road

DATE & TIME: Wednesday, September 23, 1981 at 10:30 A.M.

PUBLIC HEARING: Room 218, Courthouse, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Present Zoning: R.C. 5
Proposed Zoning: R.C. 2

All that parcel of land in the Eleventh District of Baltimore County.

BEGINNING for the same at the intersection formed by the centerline of Long Green Pike and the centerline of Glen Arm Road, running thence and binding on the centerline of Long Green Pike South 33 degrees 19 minutes 55 seconds West 277.82 feet, thence leaving said road and running South 43 degrees 23 minutes 35 seconds East 23.72 feet, South 85 degrees 36 minutes 35 seconds East 103.07 feet, South 70 degrees 49 minutes 45 seconds East 59.53 feet, South 17 degrees 42 minutes 35 seconds East 33.41 feet, South 71 degrees 47 minutes 35 seconds West 15.66 feet, North 63 degrees 59 minutes 3 seconds West 60.00 feet, North 55 degrees 36 minutes 35 seconds West 114.66 feet, North 43 degrees 23 minutes 35 seconds West 25.54 feet to the centerline of Long Green Pike, binding on said Pike South 50 degrees 19 minutes 55 seconds West 120.60 feet, thence leaving Long Green Pike and running North 54 degrees 08 minutes 10 seconds East 525.31 feet and North 42 degrees 50 minutes 00 minutes East 254.12 feet to the center of Glen Arm Road, running thence binding thereon North 79 degrees 53 minutes 00 seconds West 104.00 feet, North 78 degrees 53 minutes 00 seconds West 100.00 feet, North 70 degrees 49 minutes 45 seconds West 100.00 feet and North 70 degrees 49 minutes 45 seconds West 100.00 feet to the place of beginning.

CONTAINING 3.1 acres of land, more or less, BEING the property of Louis C. Hoffman III and wife.

Being the property of Louis C. Hoffman, III, et ux, as shown on plat plan

filed with the Zoning Department.

Hearing Date: Wednesday, September 23, 1981 at 10:00 A.M.

Public Hearing: Room 218, Courthouse, Towson, Maryland.

By Order Of William T. Hackett, Chairman

County Board of Appeals of Baltimore County

CERTIFICATE OF PUBLICATION

TOWSON, MD., September 3, 1981

THIS IS TO CERTIFY, that the annexed advertisement was

published in THE JEFFERSONIAN, a weekly newspaper printed

and published in Towson, Baltimore County, Md., once each

one time successive weeks before the 23rd

day of September, 1981, the first publication

appearing on the 3rd day of September

1981.

THE JEFFERSONIAN,

L. Frank Smith Manager.

Cost of Advertisement, \$ _____



BALTIMORE COUNTY
OFFICE OF PLANNING & ZONING
TOWSON, MARYLAND 21204
494-3353

WILLIAM E. HAMMOND
ZONING COMMISSIONER

June 20, 1981

Wallace Dunn, Esquire
Suite 517, Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204

RE: Item No. 6 - Cycle No. 1
Petitioner - Louis C. Hoffman III, et al
Reclassification Petition

Dear Mr. Dunn:

This is to advise you that \$77.15 is due for the first advertising of the above property. Two additional bills will be forwarded to you in the near future. All bills must be paid before an order is issued.

Please make check payable to Baltimore County, Maryland, and remit to Karen Kiegel, Room 113, County Office Building, Towson, Maryland 21204 before the hearing.

Very truly yours,

William E. Hammond
WILLIAM E. HAMMOND
Zoning Commissioner

WEH:mch

BALTIMORE COUNTY, MARYLAND
OFFICE OF FINANCE - REVENUE DIVISION
MISCELLANEOUS CASH RECEIPT

No. 100403

DATE 7/22/81

ACCOUNT 01-662

AMOUNT \$77.15

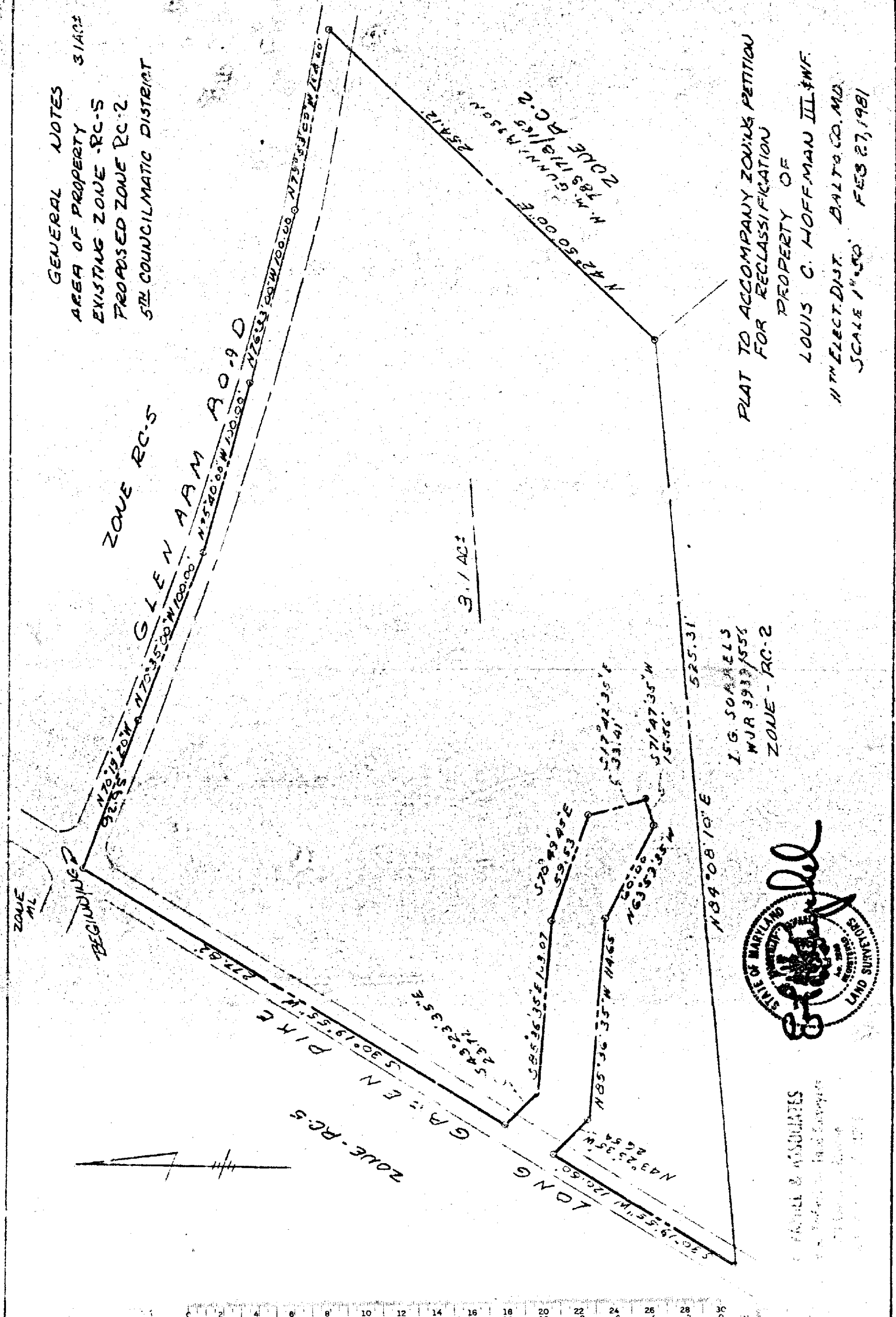
RECEIVED Louis C. Hoffman, III

FOR: Advertising of Item 6, cycle 1

77.15

VALIDATION OR SIGNATURE OF CASHIER

GENERAL NOTES
AREA OF PROPERTY 3.1 AC.
EXISTING ZONE RC-5
PROPOSED ZONE RC-2
5th COUNCILMANIC DISTRICT



I, G. SOARELS
WJA 393355
ZONE - RC-2



FILED & ASSUMES
BALTIMORE COUNTY
CLERK OF THE COURT

PLAT TO ACCOMPANY ZONING PETITION
FOR RECLASSIFICATION
PROPERTY OF
LOUIS C. HOFFMAN III & WIFE
11TH ELECT. DIST. BALTO. CO. MD.
SCALE 1"=50' FEB 27, 1981

#2007

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. George Burton
12032 Glen Arm Road
Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Bd. of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Don Tombaugh
11660 Glen Arm Road
Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen
Board of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Dick Curran
9811 Van Buren Lane
Cockeysville, Maryland 21030

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Bd. of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. John Kempke
140 Long Green Pike
Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Bd. of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Dick Curran
9811 Van Buren Lane
Cockeysville, Maryland 21030

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Bd. of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. John Kempke
140 Long Green Pike
Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen, Bd. of Appeals

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RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C.5 to R.C. 2 Zone * COUNTY BOARD OF APPEALS
SE corner Long Green Pike * OF BALTIMORE COUNTY
& Glen Arm Rd., 11th District *

LOUIS C. HOFFMAN, III, et ux, * Item 6, Cycle 1
Petitioners *

SUBPOENA DUCES TECUM

MR. CLERK:

Please issue a subpoena duces tecum to the following person:

Mr. Don Tombaugh
11660 Glen Arm Road
Glen Arm, Maryland 21057

to appear and testify in the above entitled case and make the same returnable to the County Board of Appeals, Room 218, Court House, Towson, Maryland 21204, on Thursday, January 14, 1982 at 10:00 a.m. the same to continue from day to day until hearing of the case is concluded.

Wallace Dann
Wallace Dann
Suite 517 - Chesapeake Building
305 West Chesapeake Avenue
Towson, Maryland 21204
321-0840
Attorney for the Petitioners

Mr. Sheriff:

Please issue the above summons.

June Holmen
June Holmen
Board of Appeals

RECEIVED
BALTIMORE COUNTY
CLERK OF APPEALS
Dec 22 2 46 PM '81

RE: PETITION FOR RECLASSIFICATION * BEFORE THE
from R.C. 5 to R.C. 2 * COUNTY BOARD OF APPEALS
Southeast corner Long Green Pike *
and Glen Arm Road *
11th District *

LOUIS C. HOFFMAN, III, et ux, * BALTIMORE COUNTY
Petitioners *
NC. R-82-66 (Item #6)

OPINION

This case comes before this Board requesting a change in zoning classification from R.C. 5 to R.C. 2. The parcel in question contains 3.16 acres and is located on the southeast corner of Long Green Pike and Glen Arm Road in the 11th Election District of Baltimore County. The case was heard this day in its entirety.

The subject parcel is a completely wooded parcel whose topography rises rather steeply from north to south and west to east. The zoning on the south and east is R.C. 2 while the zoning across the two roads constituting the other two boundaries is either ML or R.C. 5. It must also be noted that from the western boundary, Long Green Pike, and extending generally easterly into the subject site, there exists a sort of panhandle parcel some 200 feet long by 30 feet wide that contains a common potable water supply for several neighboring residences, and must be considered in any proposed use of the subject site.

The Board will not attempt in this opinion to detail testimony and evidence presented by the witnesses testifying this day, but will let the court record provide any detailed testimony that may become needed. It will, however, summarize those items presented that merit special consideration. Mr. Robert S. Gaines, a real estate broker and consultant to developers, testified that because of the slopes involved and the panhandle parcel containing the water supply, that at the very most, only one home could be erected on this property and that the only view afforded this home would be the factory containing the Grumman Aerospace Unit, and that in his opinion this would not be financially practical. Mr. Louis Hoffman, Petitioner and property owner, testified that he

Louis C. Hoffman, III, et ux
Case No. R-82-66 (Item #6)

earns his living by operating a fruit tree orchard some 1/4 mile west of the subject site. He noted that he purchased this property in February 1981 with no intention of developing it residentially, since the steepness of the topography, the failure of all save one percolation tests and the restrictions by the community water supply parcel all indicated an error in zoning the property R.C. 5, but that correcting this error to R.C. 2 would provide him the use of the property he desired. Mr. Rudolf Fisher, a custom home builder of some 25 years experience who lives in close proximity to the subject site, testified that he personally inspected the site and felt that not even one home could be granted permits for erection, since the only percolation test that passed would place the sewerage system on a higher elevation than the home or its well and therefore no permit would be granted. Mr. John Kempinski and Mr. Donald Tombaugh, both residents of the area, testified in favor of the petition. Mr. Richard Curran, County Agricultural Agent for Baltimore County, testified that he favored the reclassification of this parcel to R.C. 2, and that to designate this small parcel R.C. 5 in the midst of large areas of strictly farmland classified R.C. 2 was in error. This concluded Petitioner's case.

Mr. James Hoswell, Planner for Baltimore County, testified as to the correctness of the R.C. 5 zoning. He stated that he had carefully reviewed the petition as it affects this property and agreed with the Planning Board's recommendation. He described the adjacent neighborhood in detail and noted residential use on all three of the other corners of this intersection. Since these are long existing residences and since there are many other residences in the nearby area, he testified that it was his opinion the present zoning is correct. He also noted for everyone's benefit that R.C. 5 zoning denied use as a farmers' co-operative roadside stand, but that R.C. 2 zoning permitted this use by special exception and noted that this intensive roadside sales use may not be compatible with the residential use already there. He also testified that this property was not on issue on either the 1976 or the 1980 comprehensive map process. This concluded testimony received this day.

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
FROM R.C. 5 TO R.C. 2 ZONE :
SOUTHEAST CORNER LONG GREEN PIKE : FOR BALTIMORE COUNTY
AND GLEN ARM ROAD : AT LAW
11TH DISTRICT : Misc. Docket No. 14
LOUIS C. HOFFMAN, III, et ux, : Folio No. 88
Petitioners : File No. 82-M-83
Zoning Case No. R-82-66 (Item #6) :

ORDER FOR APPEAL

MR. CLERK:

Please note an appeal to the Circuit Court for Baltimore County from the Opinion and Order of the County Board of Appeals of Baltimore County, under date of March 3, 1982, granting a zoning reclassification on the subject property from R.C. 5 to R.C. 2 zone.

Peter Max Zimmerman
Deputy People's Counsel
John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that a copy of the foregoing Order was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, Maryland 21204 on this 16 day of March, 1982; and a copy was mailed to Wallace Dann, Esquire, Suite 517, Chesapeake Building, Towson, Maryland 21204.

Peter M. Zimmerman
Peter Max Zimmerman

Received: Edith T. Eisenhart 3/16/82
Edith T. Eisenhart
Administrative Secretary,
Board of Appeals of Baltimore County

Louis C. Hoffman, III, et ux
Case No. R-82-66 (Item #6)

After careful consideration of the testimony and evidence presented this day, the Board is of the opinion that the petition should be granted. The Board has no way of knowing what facts were presented the Planning Board, but their recommendation for retention of the R.C. 5 classification, as noted in their report, cites a reasonable use of the property as residential development yet testimony from witnesses intimately familiar with the subject site indicates residential development as not only impractical but virtually impossible. No mention in the report is made of the panhandle water supply parcel and the restrictions it imposes on the use of the property residentially. In addition, actual percolation tests have been conducted and failed, except for one area, this particular area being not suitable for residential use. Therefore, the Board is of the opinion that the Planning Board's recommendation of retention of the R.C. 5 zoning for residential use is in error. Since no issue regarding this property was raised on either the 1976 or the 1980 comprehensive map process, the Board must assume these facts were also not before the County Council when it affirmed the R.C. 5 zoning. Therefore the Board will find the R.C. 5 zoning to be in error and grant the petition to rezone the subject parcel from R.C. 5 to R.C. 2.

ORDER

For the reasons set forth in the foregoing Opinion, it is this 3rd day of March, 1982, by the County Board of Appeals, ORDERED that the petition of Louis C. Hoffman, III, et ux, for rezoning of the subject parcel from R.C. 5 to R.C. 2, be and the same is hereby GRANTED.

Any appeal from this decision must be in accordance with Rules B-1 thru B-12 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

William T. Hackett, Chairman
Keith S. Franz
Leroy B. Spurrier

IN THE MATTER : IN THE
OF THE APPLICATION : CIRCUIT COURT
FOR LOUIS C. HOFFMAN, III, ET UX, :
FOR REZONING OF SOUTHEAST :
CORNER LONG GREEN PIKE AND :
GLEN ARM ROAD IN THE 11TH DISTRICT :
OF BALTIMORE COUNTY, : BALTIMORE COUNTY
FROM R.C. 5 TO R.C. 2 ZONE :
Zoning Case No. R-82-66 (Item #6) : AT LAW
Misc. Docket No. 14
Folio No. 88
File No. 82-M-83

CERTIFICATE OF NOTICE

Mr. Clerk:

Pursuant to the provisions of Rule B-2(4) of the Maryland Rules of Procedure, William T. Hackett, Keith S. Franz, and Leroy B. Spurrier, constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the appeal to the representative of every party to the proceeding before it; namely, Louis C. Hoffman, III, et ux, Box 203, Glen Arm, Md. 21057, Petitioner; Wallace Dann, Esq., Suite 517, Chesapeake Bldg., Towson, Md. 21204, Counsel for Petitioners; and John W. Hession, III, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, a copy of which Notice is attached hereto and prayed that it may be made a part thereof.

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Louis C. Hoffman, III, et ux, Box 203, Glen Arm, Md. 21057, Petitioners; Wallace Dann, Esq., Suite 517, Chesapeake Bldg., Towson, Md. 21204, Counsel for Petitioners; and John W. Hession, III, Esq., Court House, Towson, Md. 21204, People's Counsel for Baltimore County, on this 31st day of March, 1982.

John W. Hession, III
County Board of Appeals of Baltimore County

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
FROM R.C. 5 TO R.C. 2 ZONE :
SOUTHEAST CORNER LONG GREEN PIKE : FOR BALTIMORE COUNTY
AND GLEN ARM ROAD :
11TH DISTRICT : AT LAW
LOUIS C. HOFFMAN, III, et ux, : Misc. Docket No. 14
Petitioners : Folio No. 88
Zoning Case No. R-82-66 (Item #6) : File No. 82-M-83

PETITION ON APPEAL

The People's Counsel for Baltimore County, Protestant below and Appellant herein, in compliance with Maryland Rule B-2(e), files this Petition on Appeal setting forth the grounds upon which this Appeal is taken, viz:

1. The record failed to support a finding of error in the Comprehensive Zoning Map process. Baltimore County Code Section 2-58.1(J)(1).
2. The record failed to show that the prospective reclassification was warranted. Baltimore County Code Section 2-58.1(J)(2).
3. The decision of the Board of Appeals to reclassify the subject property was arbitrary, capricious, and not based on substantial and legally competent evidence.
4. The County Council, in the course of the 1980 Comprehensive Rezoning process, placed an appropriate zoning reclassification on the subject property, and provided for it a reasonable use.
5. The Board of Appeals, in its finding of error, wrongfully substituted its judgment for that of the County Council.

WHEREFORE, Petitioner prays that the Order of the Board of Appeals dated March 3, 1982 be reversed, and the R.C. 5 zoning classification enacted by legislation be reinstated.

AND AS IN DUTY BOUND, etc.,

John W. Hession, III
People's Counsel for Baltimore County

RECEIVED
BALTIMORE COUNTY
MAR 21 10 31 AM '82
COUNTY BOARD OF APPEALS
BY: [Signature]

RE: PETITION FOR RECLASSIFICATION : IN THE CIRCUIT COURT
FROM R.C. 5 TO R.C. 2 ZONE :
SOUTHEAST CORNER LONG GREEN PIKE : FOR BALTIMORE COUNTY
AND GLEN ARM ROAD :
11TH DISTRICT : AT LAW
LOUIS C. HOFFMAN, III, et ux, : Misc. Docket No. 14
Petitioners : Folio No. 88
Zoning Case No. R-82-66 (Item #6) : File No. 82-M-83

PETITION FOR EXTENSION OF TIME TO FILE TRANSCRIPT OF PROCEEDINGS

People's Counsel for Baltimore County, Appellant herein, petitions this Court, pursuant to Maryland Rule B7(b), for an extension of time within which to file the transcript of proceedings before the Baltimore County Board of Appeals and in support of this Petition states:

1. That your Petitioner has heretofore filed his Appeal in this matter and the record is ordinarily required to be transmitted to the Clerk of this Honorable Court by the County Board of Appeals on or before the 28th day of April, 1982.
2. That your Petitioner has been advised by the Administrative Secretary of the County Board of Appeals of Baltimore County that the reporter for said Board, Carol Ann Beresh, is absent on vacation and presently has a backlog of transcripts to prepare and complete for records to be transmitted;
3. That it is the opinion of said Administrative Secretary that upon her return, the said Carol Ann Beresh will not be able to complete the record in this case in time for transmittal within the initially allotted 30-day period.

WHEREFORE, your Petitioner prays that the time within which the record in this case might be transmitted in accordance with the Maryland Rules be extended for a period of sixty days.

Peter Max Zimmerman
Deputy People's Counsel

John W. Hession, III
People's Counsel for Baltimore County
Rm. 223, Court House
Towson, Maryland 21204
494-2188

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BALTIMORE COUNTY
APR 5 11 15 AM '82
COUNTY BOARD OF APPEALS
BY: [Signature]

-2-

Peter Max Zimmerman
Deputy People's Counsel
Rm. 223, Court House
Towson, Maryland 21204
494-2188

I HEREBY CERTIFY that on this 29th day of March, 1982, a copy of the foregoing Petition on Appeal was delivered to the Administrative Secretary, County Board of Appeals, Rm. 200, Court House, Towson, Maryland 21204; and a copy was mailed to Wallace Dann, Esquire, Suite 517, Chesapeake Building, Towson, Maryland 21204.

Received: Edith T. Eisenhart 3/16/82
Edith T. Eisenhart
Administrative Secretary,
Board of Appeals of Baltimore County

-2-

I HEREBY CERTIFY that on this 5th day of April, 1982, a copy of the foregoing Petition for Extension of Time to File Transcript of Proceedings and proposed Order were delivered to the Administrative Secretary, County Board of Appeals of Baltimore County, Rm. 200, Court House, Towson, Maryland 21204; and a copy was mailed to Wallace Dann, Esquire, Suite 517, Chesapeake Building, Towson, Maryland 21204.

Received: Edith T. Eisenhart 3/16/82
Edith T. Eisenhart
Administrative Secretary,
Board of Appeals of Baltimore County

Acknowledged and Approved:

Carol Ann Beresh
Official Reporter